Kobayashi and Hisako Ohata Kobayashi, his wife; to the Committee on the Judiciary.

H.R. 17665. A bill for the relief of Bernardita C. Perena; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 17666. A bill for the relief of Mrs. Rosa Zimmerman; to the Committee on the Judiciary.

By Mr. REES:

H.R. 17667. A bill for the relief of Mr. Pao Ro Chen; to the Committee on the Judiciary.

H.R. 17668. A bill for the relief of Miss Visitacion V. Hernandez; to the Committee on the Judiciary.

By Mr. ROGERS of Colorado:

H.R. 17669. A bill for the relief of Motek Rodzynek; to the Committee on the Judiciary.

By Mr. RONAN:

H.R. 17670. A bill for the relief of Zaven O. Kodjayan; to the Committee on the Judiciary.

H.R. 17671. A bill for the relief of Mike George Spanoudakis; to the Committee on the Judiciary.

SENATE—*Tuesday, June 4, 1968*

The Senate met at 12 o'clock noon, and was called to order by the President pro tempore.

Rev. Edward B. Lewis, D.D., pastor, Capitol Hill United Methodist Church, Washington, D.C., offered the following prayer:

Dear God of all goodness, we are reminded of the positive part of living when we bow for a moment of prayer.

In this time of history when we are prone to major on the negative, we need the thought of the power of the basic goodness which is given to life as its sure foundation.

Help us to have the spirit to minister and not expect to be ministered unto. Quicken in us an awareness of human need. Teach us to forget ourselves in service to others. Give us the will to pay the personal spiritual price for the peace we seek.

May we share our abundance with the hungry, open doors of opportunity to the poor, and extend the hand of friendship to the lonely and confused.

Give us the grace to be wise stewards of good things that have been entrusted unto us.

We pray in the name of our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, June 3, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of A. Everette MacIntyre, of Virginia, to be a Federal Trade Commissioner, which was referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 2452. An act to provide for the adjustment of the legislative jurisdiction exercised by the United States over lands within the Crab Orchard National Wildlife Refuge in Illinois;

S. 2634. An act to amend section 867(a) of title 10, United States Code, in order to establish the Court of Military Appeals as the U.S. Court of Military Appeals under article I of the Constitution of the United States, and for other purposes; and

S. 3017. An act to change the provision with respect to the maximum rate of interest permitted on loans and mortgages insured under title XI of the Merchant Marine Act, 1936.

The message also announced that the House had passed the bill (S. 2047) to exempt certain vessels engaged in the fishing industry from the requirements of certain laws, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 3363) to designate the U.S. Customs House Building in Providence, R.I., as the "John E. Fogarty Federal Building," with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3165. An act for the relief of Hood River County, Oreg.;

H.R. 8953. An act to amend the act of November 21, 1941 (55 Stat. 773), providing for the alteration, reconstruction, or relocation of certain highway and railroad bridges by the Tennessee Valley Authority;

H.R. 10911. An act to provide for preparation of a roll of persons of California Indian descent and the distribution of certain judgment funds;

H.R. 15395. An act to provide salary step advancements and adjustments for employees moving to and from different pay systems, and for other purposes;

H.R. 15971. An act to increase the participation of law officers and counsel on courts martial, and for other purposes;

H.R. 16065. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in deeds conveying certain lands to the State of Iowa, and for other purposes;

H.R. 16451. An act to authorize the Secretary of Agriculture to cooperate with the several governments of Central America in the prevention, control, and eradication of foot-and-mouth disease or rinderpest;

H.R. 17002. An act to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938; and

H.R. 17024. An act to repeal section 1727 of title 18, United States Code, so as to permit prosecution of postal employees for failure to remit postage due collections, under the postal embezzlement statute, section 1711 of title 18, United States Code.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated.

H.R. 3165. An act for the relief of Hood River County, Oreg.; and

H.R. 17024. An act to repeal section 1727 of title 18, United States Code, so as to permit prosecution of postal employees for failure to remit postage due collections, under the postal embezzlement statute, section 1711 of title 18, United States Code; to the Committee on the Judiciary.

H.R. 8953. An act to amend the act of November 21, 1941 (55 Stat. 773), providing for the alteration, reconstruction, or relocation of certain highway and railroad bridges by the Tennessee Valley Authority; to the Committee on Public Works.

H.R. 10911. An act to provide for preparation of a roll of persons of California Indian descent and the distribution of certain judgment funds; to the Committee on Interior and Insular Affairs.

H.R. 15395. An act to provide salary step advancements and adjustments for employees moving to and from different pay systems, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 15971. An act to increase the participation of law officers and counsel on courts-martial, and for other purposes; to the Committee on Armed Services.

H.R. 16065. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in deeds conveying certain lands to the State of Iowa, and for other purposes;

H.R. 16451. An act to authorize the Secretary of Agriculture to cooperate with the several governments of Central America in the prevention, control, and eradication of foot-and-mouth disease or rinderpest; and

H.R. 17002. An act to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938; to the Committee on Agriculture and Forestry.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSPORTATION PERFORMED BY AGRICULTURAL COOPERATIVE ASSOCIATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1136, S. 752.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 752) to amend section 203(b)(5) of the Inter-

state Commerce Act to clarify this exemption with respect to transportation performed by agricultural cooperative associations for nonmembers.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That at the end of section 203(b)(5) of the Interstate Commerce Act delete the semicolon and add the following language: ", but any interstate transportation performed by such a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under this part, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 per centum of its total interstate transportation services in any fiscal year, measured in terms of tonnage: *Provided*, That, for the purposes hereof, notwithstanding any other provision of law, transportation performed for or on behalf of the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember: *Provided further*, That any such cooperative association or federation which performs interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, except transportation otherwise exempt under this part, shall notify the Commission of its intent to perform such transportation prior to the commencement thereof: *And provided further*, That in no event shall any such cooperative association or federation which is required hereunder to give notice to the Commission transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the total quantity of property transported interstate for itself and its members in such fiscal year."

SEC. 2. Section 220 of the Interstate Commerce Act, as amended, is further amended by adding the following immediately after subsection (f):

"(g) The Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative association or federation of cooperative associations which is required to give notice to the Commission pursuant to the provisions of section 203(b)(5) of this part: *Provided, however*, That the Commission shall have no authority to prescribe the form of any accounts, records, or memorandums to be maintained by a cooperative association or federation of cooperative associations."

Mr. LAUSCHE. Mr. President, the bill, S. 752, which was ordered reported unanimously by the Senate Commerce Committee, would further the objectives of our national transportation policy and strengthen our Nation's common carrier system by enabling the ICC to act more effectively against illegal haulers pretending to be bona fide farm cooperatives, and by restricting and clarifying the agricultural cooperative transportation exemption.

S. 752 contains two sections. The first section proposes to amend section 203(b)(5) of the Interstate Commerce Act to limit the agricultural cooperative transportation exemption, and to require agricultural cooperatives to notify the ICC before transporting "general freight." Section 2 of S. 752 proposes to amend section 220 of the Interstate Commerce Act to grant the Commission specific authority to examine the books and records of such cooperatives.

In the last Congress, Public Law 89-170 was enacted to amend the Interstate Commerce Act to provide the Commission with better tools to eliminate illegal carriers from the highways. This legislation provided for cooperative State and Federal enforcement agreements, civil forfeiture penalties, and increased penalties for violations of the Interstate Commerce Act.

After the enactment of this legislation, in the first session of the 89th Congress, the Surface Transportation Subcommittee began considering legislation recommended by the ICC to enable the Commission to proceed against illegal operators pretending to be legitimate farm services operating under the agricultural cooperative transportation exemption.

Surface Transportation Subcommittee hearings were held on the ICC's proposal in the 89th Congress, and on a revised ICC legislative recommendation on July 24, 25, and 26, 1967, in this Congress.

The Surface Transportation Subcommittee recommended to the full committee a somewhat different bill than the proposal suggested by the Commission. The subcommittee's approach with certain amendments suggested by the Department of Agriculture was favorably reported by the full committee. The version of S. 752 as reported is acceptable to the Department of Agriculture and to the major farm groups testifying—the National Council of Farmer Cooperatives, American Farm Bureau Federation, and the National Grange. The reported version of S. 752 is also acceptable to the Interstate Commerce Commission, the American Trucking Associations and the Association of American Railroads.

The bill as reported requires a cooperative to notify the Commission before beginning to transport general freight, authorizes the Commission to inspect the books and records of such cooperatives, and clarifies and limits the agricultural cooperative transportation exemption. The exemption limit proposed in the bill is that for-hire transportation performed by a cooperative or federation of such cooperatives for nonmembers who are neither farmers, cooperative associations, nor federations thereof and excepting agricultural products which are exempted from other provisions of the Interstate Commerce Act, shall be limited to: First, transportation which is incidental to the cooperative's primary transportation operation and necessary for its effective performance; and second, transportation which in no event exceeds 15 percent of the cooperative's total interstate transportation services in any fiscal year, measured in terms of tonnage.

The proposed bill is acceptable to both the farm community and the transportation industry. The revised scope of this limitation, notice, and inspection of books and records provisions will provide a workable means whereby the Commission can identify and proceed against illegal operators masquerading as legitimate exempt cooperative transportation operations. At the same time the revised scope of this limitation will enable bona fide agricultural cooperatives to continue to provide farm services without substantially affecting our national common carrier system.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes."

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll

The bill clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). Without objection, it is so ordered.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. MANSFIELD (for Mr. FULBRIGHT), from the Committee on Foreign Relations, without amendment:

H.R. 16911. An act to provide for U.S. participation in the facility based on special drawing rights in the International Monetary Fund, and for other purposes (Rept. No. 1164).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Gen. Harold Keith Johnson, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of general; and

Gen. William Childs Westmoreland, Army of the United States (major general, U.S. Army), for appointment as Chief of Staff, U.S. Army.

By Mr. CANNON, from the Committee on Armed Services:

Ernest Louis Massad, of Oklahoma, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

By Mr. BYRD of Virginia, from the Committee on Armed Services:

Vice Adm. Waldemar F. A. Wendt, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of admiral while so serving.

By Mr. MANSFIELD (for Mr. FULBRIGHT), from the Committee on Foreign Relations, reported favorably, with reservations:

Executive J, 90th Congress, first session,

Tax Convention with Brazil; Executive N, 90th Congress, first session, Tax Convention with France; and Executive D, 89th Congress, first session, Tax Convention with the Philippines (Exec. Rept. No. 5).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FANNIN:

S. 3579. A bill to amend title 10, United States Code, to increase the number of congressional alternates authorized to be nominated for each vacancy at the Military, Naval, and Air Force Academies; to the Committee on Armed Services.

(See the remarks of Mr. FANNIN when he introduced the above bill, which appear under a separate heading.)

By Mr. BOGGS:

S. 3580. A bill for the relief of Dr. Abid Mohiuddin; to the Committee on the Judiciary.

By Mr. MANSFIELD:

S. 3581. A bill for the relief of James Glen Ramsay; to the Committee on the Judiciary.

By Mr. MANSFIELD (for himself and Mr. METCALF):

S. 3582. A bill to amend section 122 of title 23, United States Code, to authorize use of Federal-aid secondary system funds in retirement of certain bonds; to the Committee on Public Works.

By Mr. METCALF:

S. 3583. A bill to extend the provisions of certain laws relating to housing and urban development to the Trust Territory of the Pacific Islands; to the Committee on Banking and Currency.

S. 3584. A bill for the relief of Pao Fen Lee, Hang Kwun Sze; to the Committee on the Judiciary.

(See the remarks of Mr. METCALF when he introduced the first above-mentioned bill, which appear under a separate heading.)

By Mr. PERCY:

S. 3585. A bill for the relief of Myong-Sok Chu; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 3586. A bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. JACKSON when he introduced the above bill, which appear under a separate heading.)

By Mr. JORDAN of Idaho:

S. 3587. A bill for the relief of Benedicto Inchausti; to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 3588. A bill to amend the 1964 amendments to the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. BARTLETT when he introduced the above bill, which appear under a separate heading.)

By Mr. BAYH:

S. 3589. A bill to provide that the highway known as U.S. Highway No. 41 between Chicago, Ill., and Evansville, Ind., shall be designated as part of the National System of Interstate and Defense Highways; to the Committee on Public Works.

(See the remarks of Mr. BAYH when he introduced the above bill, which appear under a separate heading.)

S. 3579—INTRODUCTION OF BILL TO INCREASE THE NUMBER OF CONGRESSIONAL ALTERNATES AUTHORIZED TO BE NOMINATED FOR VACANCIES IN THE MILITARY, NAVAL, AND AIR FORCE ACADEMIES

Mr. FANNIN. Mr. President, I introduce, for appropriate reference, a bill to amend title 10, United States Code, to increase the number of congressional alternates authorized to be nominated for vacancies at the service academies.

This bill would increase from six to 10 the number of candidates a Member of Congress may nominate to each vacancy he has at the Naval, Military, and Air Force Academies. As a member of the Board of Visitors, I can affirm that the passage of this legislation is badly needed in view of increasing candidate recruitment problems faced by the service academies. The increased number of candidates which would result from this bill, or H.R. 13593 recently passed by the House, would contribute to the solution of this problem and help assure an adequate number of qualified candidates each year.

Mr. President, I am hopeful that this much needed legislation will receive prompt action.

The PRESIDING OFFICER (Mr. NELSON in the chair). The bill will be received and appropriately referred.

The bill (S. 3579) to amend title 10, United States Code, to increase the number of congressional alternates authorized to be nominated for each vacancy at the Military, Naval, and Air Force Academies, introduced by Mr. FANNIN, was received, read twice by its title, and referred to the Committee on Armed Services.

S. 3583—INTRODUCTION OF BILL RELATING TO EXTENSION TO THE TRUST TERRITORY OF THE PACIFIC ISLANDS CERTAIN FEDERAL HOUSING LAWS

Mr. METCALF. Mr. President, I introduce, for appropriate reference, a bill to extend the provisions of certain laws relating to housing and urban development to the Trust Territory of the Pacific Islands.

Mr. President, the intent of the proposed amendments is to extend to the Trust Territory of the Pacific Islands certain of the Federal housing laws including the loan guarantee provisions of the housing act. At the present time the act does not apply in the trust territory. Adequate and safe housing is a serious lack in all of the major islands of this vast area. Financial assistance is needed if any substantial improvement is to be made.

A recent census was taken in the trust territory which reported approximately 14,000 housing units throughout the islands. Of this total, only 858 had concrete walls and only 247 had concrete roofs. Almost 5,000 had thatch roofs and more than 2,000 had thatch walls. In view of the humid climate of the area and its location within the typhoon belt of the Pacific, this kind of housing falls far short of the minimum standards sought by the Micronesians.

The proposed amendments seek to make available guarantee support for private individuals who wish to replace or to improve their dwellings, to assist in overcoming the urbanized congestion which is growing in the several district centers and, in the event of natural disaster such as the recent typhoon which swept Saipan, to assist in replacing damaged or destroyed private housing.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3583) to extend the provisions of certain laws relating to housing and urban development to the Trust Territory of the Pacific Islands, introduced by Mr. METCALF, was received, read twice by its title, and referred to the Committee on Banking and Currency.

S. 3586—INTRODUCTION OF ALASKA NATIVE LAND CLAIMS LEGISLATION

Mr. JACKSON. Mr. President, I introduce, by request, for appropriate reference, a bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes. This measure was transmitted by the Department of the Interior on April 30, 1968, and I am introducing it at the Department's request.

Mr. President, I ask unanimous consent that the Department's letter transmitting the legislation, the bill and a short explanation of the bill's major provisions be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, letter, and explanation will be printed in the RECORD.

The bill (S. 3586) to provide for the settlement of certain land claims of Alaska natives, and for other purposes, introduced by Mr. JACKSON, by request, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1968".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "Native" means an Alaska Indian, Eskimo, or Aleut of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof; and

(c) "Native group" means any tribe, band, clan, village, community, or association in Alaska composed of twenty-five or more eligible Natives and approved by the Secretary.

DECLARATION OF POLICY

SEC. 3. Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by Natives of Alaska by providing (a) a grant to each Native group of title to their village sites that are now being used by said group and to additional lands in the vicinity of the villages that will be needed for reasonable community expansion to fulfill future economic and social requirements, (b) a reasonable payment to Native groups for the purpose of enhancing the present and future welfare of the Natives in Alaska, and (c) provision for Native hunting, fishing, trapping, and berry picking, within Federal lands not granted to the Native groups; and that it is the purpose of this Act to provide such a settlement.

DECLARATION OF SETTLEMENT

SEC. 4. The provisions of this Act shall be regarded as full and final settlement of any

and all claims against the United States based upon aboriginal right, title, use, or occupancy of lands in Alaska by Natives or arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), including claims pending before the Indian Claims Commission by previous authorization of Congress and not finalized by said Commission on the date of enactment of this Act.

GRANT OF LANDS

SEC. 5. (a) Subject to the provisions of this Act, the Secretary, upon his own initiative and without application, is authorized to grant, in trust, to each Native group, subject to valid existing rights and if not withdrawn for purposes unrelated to Native use or the administration of Native affairs, (1) title to the village site or sites now occupied by such group, and (2) title to such additional lands in the vicinity of such site or sites which, in his judgment, would contribute significantly to the reasonable community expansion to fulfill future economic and social requirements, taking into account such factors as population, economic resources of said group, traditional way of life of said group, and the nature and value of the land proposed to be granted: *Provided*, That, at any time during the term of the trust, the Secretary, upon application of the Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted under this subsection to said group. Such grant may include a grant of title to noncontiguous lands being used and occupied by such Natives for burial grounds, airfields, water supply, hunting and fishing camps, and dock or boat-launching sites that are not withdrawn for other purposes. In the case of Native villages in locations where there are not sufficient additional lands in Federal ownership to permit the Secretary to make the grant of additional lands contemplated by this subsection, the Secretary may convey other lands in lieu thereof but subject to the same conditions and limitations that apply to conveyances of land within the vicinity of a village.

(b) In no case may the grant of land to a Native group under this section exceed fifty thousand acres.

(c) The provisions of this section shall not apply to Native groups who are beneficiaries of the judgment recovered by the Tlingit and Haida Indians in Court of Claims Docket No. 47,900.

RESERVATIONS AND RESERVES

SEC. 6. (a) The areas of lands and waters heretofore reserved and set aside by Executive or Secretarial order for the use of the Native groups of Akutan, Diomede, Karluk, Unalakleet, Venetie, and Wales shall be granted in trust to said groups. To the extent such areas are smaller than the areas of land that could be granted to each group under the terms of section 5 of this Act, additional lands may be granted to the group, in trust, by the Secretary: *Provided*, That the total grant shall not exceed fifty thousand acres.

(b) The various reserves set aside by Executive or Secretarial order for Native use or for administration of Native affairs, including those created under authority of the Act of May 31, 1938 (52 Stat. 593), shall be revoked, subject to any valid existing rights of any non-Natives, by the grant of title in trust by the Secretary of up to fifty thousand acres of land now covered by such order to the Native group using or occupying said lands on the date of enactment of this Act.

(c) At any time during the term of the trust covering lands granted under this section, the Secretary, upon application of a Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted to said groups.

(d) The grant of lands under this section now covered by an Executive or Secretarial order shall include the underlying mineral deposits.

INTERIM ADMINISTRATION UNDER PUBLIC LAND LAWS

SEC. 7. (a) As soon as possible after the effective date of this Act, the Secretary shall, subject to valid existing rights, withdraw from all forms of appropriation under any of the public land laws, including without limitation selection by the State of Alaska under the Statehood Act of July 7, 1958 (72 Stat. 339), any lands which he believes may be subject to a grant to a Native group pursuant to this Act, but not to exceed a total of 20 million acres. Such withdrawals shall be revoked as rapidly as grants to Native groups permit. A State selection of lands that are withdrawn shall not be approved, regardless of whether the selection was initiated before or after the withdrawal, until the withdrawal is revoked.

(b) A Native claim based on use and occupancy of unwithdrawn land shall not be the basis for the rejection of State selections or other applications or claims under the public land laws.

(c) Either before withdrawing lands under this section or before granting a patent pursuant to this Act, the Secretary shall consult with the Secretary of Defense with respect to the effect of the withdrawal or grant on the security of the United States.

(d) Nothing in this Act shall affect the rights of Natives as citizens to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended (48 U.S.C. 357), or the provisions of other applicable statutes.

(e) Lands granted pursuant to this Act shall, so long as they remain not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented.

(f) Any lands granted in fee or in trust under this Act shall be subject to the right of the Secretary to issue and enforce for the protection of migratory birds regulations in accordance with the provisions of the Migratory Bird Treaty Act, as amended.

(g) The Secretary is authorized to make any grant of land under this Act subject to easements for any public use, benefit, or purpose, including easements for the administration and utilization of any Federal lands.

(h) Prior to conveyance of land under this Act, the Secretary shall have its exterior boundaries surveyed. This requirement for survey shall be satisfied without continuous marking of the line, but by establishment of monuments along all the boundaries, except meander courses, by electronic measurement or other means, at intervals of not more than six thousand feet, or by extension of the rectangular system of surveys over the areas conveyed. Conveyances of surveyed lands shall be in accordance with the plats of survey, and those for unsurveyed lands shall, following survey, be so conformed.

TRUSTS

SEC. 8. (a) Title to land granted under this Act to a Native group in trust shall be held by the United States in trust, acting through the Secretary as trustee. The term of a trust established by, or pursuant to, this section shall not exceed twenty-five years from the date of any grant made under this Act, and when the trust terminates it shall be liquidated in accordance with the terms of the trust instrument or as prescribed by the Secretary, if there is no trust instrument, or as prescribed in sections 5 and 6 of this Act. Whenever a distribution of capital or income of the trust is made to the Native group, the finding of the Secretary as to the qualified recipients shall be final and conclusive.

(b) The Secretary, as trustee, under this Act shall have the powers and duties set forth in the deed of trust, including without limitation, subdivision, management, and disposal by sale, lease, or other method, of the lands or interests therein, except the mineral interests in lands granted under section 5 of this Act, investment and reinvestment of the proceeds, and distribution of income or capital of the trust to the Native group and he shall not be subject to the laws of Alaska governing the execution of trusts. In the disposal of any tract of land under the trust, the trustee shall give a right of first refusal to the occupant thereof. The title to land conveyed by the trustee to a Native shall be subject to the provisions of section 1 of the Act of May 25, 1926 (44 Stat. 692; 48 U.S.C. 355a), with respect to lands conveyed to Natives in townsites established under section 11 of the Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as supplemented by the Act of February 26, 1948 (62 Stat. 35; 48 U.S.C. 355e). The trustee may convey without compensation to private religious, charitable, or educational institutions or organizations the land occupied by buildings of facilities owned by them on the date the trust is established, where such buildings or facilities are situated within the boundaries of the land to be granted pursuant to this Act.

MINERALS

SEC. 9. Subject to valid existing rights of any non-Native, the Secretary upon granting in trust or in fee any lands under section 5 of this Act to a Native group shall grant to the Corporation established by section 10 of this Act title to all mineral deposits in said lands together with the right to mine and remove the same under leases issued by said Corporation. Said Corporation shall hold such minerals in trust for the benefit of each Native group having the surface lands and shall administer the trust in accordance with the applicable provisions of this Act and the laws of Alaska governing the execution of trust. All revenues received by the Corporation in the administration of such trust shall be shared equally each year with the Native group that has title to the lands from which such receipts were derived. Whenever the trust terminates by reason of the dissolution of said Corporation or by subsequent Act of Congress, the Secretary shall convey title to such mineral deposits, subject to valid existing rights, to the Native group having title to the surface lands.

NATIVE ECONOMIC IMPROVEMENT CORPORATION

SEC. 10. (a) There shall be established a single nonprofit statewide Native Economic Improvement Corporation, hereinafter referred to as the "Corporation," for the purpose of promoting economic opportunity for the benefit of the Natives and their descendants in Alaska. The Corporation shall be organized as approved by the Secretary under the laws of the State of Alaska. The Board of Directors of the Corporation shall be elected by the Natives in Alaska on a basis, determined by the Secretary, which will assure adequate representation of all such Natives and their descendants. The Board shall appoint a manager of the Corporation and such other officers as the Board deems desirable to serve at the Board's pleasure, and shall fix their compensation. It shall be the responsibility of the manager to carry out the Corporation's functions in a business-like manner consistent with the provisions of this Act and the policies and directives of the Board. The manager shall select the Corporation's agents and employees, define their duties, and fix their compensation.

(b) The Corporation, in accordance with such standards as the Commission established by this Act may from time to time prescribe, may, among other things:

(1) Initiate and coordinate the preparation of long-range overall economic development

programs for the Natives and their descendants;

(2) Foster surveys and studies to provide data required for the preparation of specific plans and programs of development;

(3) Promote private investment in enterprises or activities which will improve the economic status of Natives and their descendants;

(4) Develop, establish, operate, and maintain various business enterprises or invest in such enterprises to develop, improve, and utilize skills and capabilities of the Natives and their descendants;

(5) Make loans to Natives and their descendants in Alaska on reasonable terms and conditions to finance plant construction, reconstruction, conversion, or expansion, the acquisition of equipment, facilities, machinery, supplies, or materials, and for any other purpose that will promote effectively economic development for the Natives and their descendants in Alaska, where financial assistance applied for is not otherwise available on reasonable terms;

(6) Make grants to one or more Native groups for the development and operation and maintenance of projects which will promote the welfare of the Natives and their descendants; and

(7) Lease competitively, in accordance with sound conservation principles and practices, the minerals held in trust by the Corporation.

(c) The Corporation shall not be regarded as an instrumentality of the United States for any purpose and the United States shall not be responsible for the Corporation's actions or debts. The members of the Board, the manager, and the other officers, agents, and employees of the Corporation shall not be regarded as Federal employees for any purpose.

(d) The Corporation shall at all times maintain complete and accurate books of account and records which shall be reviewed by said Commission periodically. The Commission shall periodically report to the Congress, through the Secretary and the President, but at not less than three-year intervals on the activities and financial condition of the Corporation.

TAXATION

SEC. 11. So long as the lands granted to a Native group by this Act and the minerals granted to the Corporation are held by such group or by a Native or his descendants or by the Corporation in fee or in trust, such land and minerals shall not be subject to State or local taxes upon real estate. Rents, issues, profits, royalties, and other revenues or proceeds derived from such lands by a Native or his descendant or a non-Native shall be subject to Federal and State or local tax laws. Payments made under this Act or under any State statute to the Corporation shall not be taxed to the Corporation. Leasehold or other interests in such lands held by non-Natives may be taxed as provided by State law. No part of any per capital distribution made by a Native group of any or all of the funds granted to said group under section 14 of this Act or of any or all of the mineral revenues paid to said group by the Corporation under section 9 of this Act shall be subject to Federal or State income tax. The Corporation shall be organized and operated in a manner which will enable such Corporation to qualify for tax exemption under section 501 of the Internal Revenue Code of 1954.

ENROLLMENT

SEC. 12. The Secretary shall prepare a roll of Natives, and he shall prepare a roster of Native groups eligible to receive any grant under this Act. Such roll and roster shall be determined as of the date of this Act. Rolls of Natives and descendants eligible to vote in any election held pursuant to this Act may be prepared by the Secretary from time to time. Before any such roster or roll is finally approved by the Secretary, it shall be published in such manner as he shall find to be practicable and effective, and an opportunity shall be given to lodge protests thereto. The Secretary's findings shall be conclusive. Each Native shall be afforded an opportunity to be enrolled in the city, town, or village in which or nearest which he resides or in the city, town, or village from which an ancestor came, under regulations issued by the Secretary.

ABORIGINAL USE

SEC. 13. The Secretary may permit the Natives of Alaska to use for fifty years or less from the date of this Act exclusively for hunting, fishing, trapping, and berrypicking purposes any land in Alaska that is owned by the United States, in accordance with applicable State and Federal laws and regulations and with the concurrence of the head of the agency administering such land. Any patents or leases hereafter issued for such lands pursuant to the Alaska Statehood Act, or the public land, mining, or mineral leasing laws, shall contain a reservation to the United States of the right to issue for nonexclusive hunting, fishing, trapping, and berrypicking purposes, permits for up to fifty years from the date of this Act.

GRANT

SEC. 14. (a) In lieu of according the Natives any right to recover compensation for the extinguishment of aboriginal title, there is authorized to be appropriated and deposited in a special account in the United States Treasury to the credit of the Natives such sums as may be necessary to make a grant to each Native group (1) in an amount computed on the basis of $3,000 for each Native in said group, except that, in the case of any Tlingit and Haida Natives in said group, there shall be deducted their pro rata share, after attorneys' fees and litigation expenses, of the money judgment awarded to them in Court of Claims docket numbered 47,900, or (2) in the amount of $180 million, whichever is the lesser sum. One-third of the grant shall be deposited into the special account during fiscal year 1971 and the remainder deposited into the account in equal amounts in each of the succeeding four fiscal years and shall earn interest in the amount of 4 percent per annum.

(b) Each year the Secretary shall apportion 90 percent of the funds then in the special account among the Native groups in Alaska. The apportionment shall be in the ratio that the number of Natives in each Native group bears to all of the Natives. The funds apportioned among each Native group may be advanced, expended, invested, or reinvested for any purpose that is authorized by the governing organization of the Native group and that is approved by the Commission established by this Act. Each year the remaining funds then in the special account shall be credited to the Corporation and such funds, together with all other revenues available to the Corporation, may be expended by the Corporation, in accordance with an annual budget prepared by the Corporation and approved by said Commission.

(c) Before apportioning any money under the provisions of subsection (b) of this section to the Native groups composed of Tlingit and Haida Natives who participated in or received benefits from, the judgment awarded to the Tlingit and Haida Natives in Court of Claims docket numbered 47,900, the Secretary shall deduct the pro rata share, after the deduction of attorneys' fees and litigation expenses, of said money judgment.

METLAKAHTLA INDIANS

SEC. 15. The provisions of this Act shall not apply to the Native groups of Metlakahtla Indians in the Annette Island Reservation but such groups shall be eligible to receive any benefits the Corporation may provide.

ALASKA NATIVE COMMISSION

SEC. 16. In order to assist the Secretary in the administration of this Act, the President may appoint an Alaska Native Commission of not to exceed three members who shall serve at the pleasure of the President. A majority of the members shall have been residents of Alaska for one or more years preceding appointment. The Commission shall be located without the Department of the Interior and shall have the duties and powers prescribed in this Act and such other duties and powers as the Secretary may from time to time delegate. The Secretary shall also prescribe the compensation to be paid to the members and provide for payment of Commission expenses, including employment of necessary personnel. The Secretary may utilize, with or without reimbursement, personnel and facilities of the Department of the Interior to assist the Commission in carrying out its functions.

NATIONAL FOREST LANDS

SEC. 17. The Native groups shall qualify as communities within the meaning of section 6(a) of the Alaska Statehood Act.

APPROPRIATIONS

SEC. 18. (a) There are authorized to be appropriated to the Secretary such sums as may be necessary to defray the costs of the planning, subdivision, survey, management, and disposal of lands under this Act, either directly by the Secretary or by contract, and to pay the expenses of the Commission established by this Act, and to carry out functions authorized by this Act. Such sums shall be available until expended.

(b) There is authorized to be appropriated to the Secretary such sums as may be necessary to pay all reasonable attorneys' fees and expenses actually incurred by any Native or Native group, as determined by the Secretary, in connection with any claims pending at the date of enactment of this Act before the Indian Claims Commission, which have been terminated by reason of section 4 of this Act.

(c) At the beginning of each Congress the Secretary shall report to the Speaker of the House and the President of the Senate the grants made under this Act and an estimate of the time needed to complete the grants. The reporting may be discontinued when the grants are substantially completed.

REPEAL

SEC. 19. Section 3 of the Act of May 25, 1926 (44 Stat. 630; 48 U.S.C. 355c) is hereby repealed.

The letter and explanation, presented by Mr. JACKSON, are as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 30, 1968.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Since transmitting legislation to the Congress last June to settle the claims of Alaska Natives which was introduced as S. 1964, a new bill (S. 2906) prepared by the Governor of Alaska's Task Force on Native Land Claims was introduced. That bill, in our opinion, represents significant progress toward reaching agreement among the interested parties on the principles for an equitable settlement of the long-standing problem.

The early resolution of this matter would be of inestimable significance not only to the Alaska Natives who make up about 25 percent of the State's civilian population, but also to all citizens of the State.

We believe that this issue is one of the most important Indian matters before the 90th Congress. President Johnson in his message "The Forgotten American" urged "prompt action on legislation to:

"Give the native people of Alaska title to

the lands they occupy and need to sustain their villages.

"Give them rights to use additional lands and water for hunting, trapping and fishing to maintain their traditional way of life, if they so choose.

"Award them compensation commensurate with the value of any lands taken from them."

Enclosed is a proposed bill which carries out the three principles outlined by the President. We urge its early enactment in lieu of S. 1964 or S. 2906.

The Act of May 17, 1884 (23 Stat. 24), providing a civil government for the Territory of Alaska, declared that the Natives "shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them, but the terms and conditions under which such persons may acquire title to such lands is reserved for future legislation by Congress." A similar provision is contained in the Act of June 6, 1900 (31 Stat. 321), which provided a civil government for Alaska.

In the absence of Congressional action, the Natives cannot be given full title to the lands they have traditionally used and occupied. Moreover, since the Natives have a Federal guarantee that they shall not be disturbed in their use and occupation of lands, we do not feel that we can allow lands to be patented to the State under the land selection provisions of the Alaska Statehood Act, July 7, 1958 (72 Stat. 339), in the face of the Natives' claims that they have traditionally been using and occupying such lands. To allow these lands to pass into other ownership would pre-empt from Congress the power to exercise its right and obligation to decide this issue, and would deny the Alaska Natives an opportunity to acquire title to lands which in many instances, it is generally admitted, they have openly and continuously used and occupied from a period that antedated the purchase of Alaska by the United States.

When Congress recognizes an aboriginal title, as it did in the Act of June 19, 1935 (49 Stat. 388), with respect to the claims of the Tlingit and Haida Indians to compensation for the expropriation by the United States of lands in southeastern Alaska, and for failure of the United States to protect their property rights from usurpation by non-Indians, the Natives acquire a compensable ownership interest in the land that is protected by the due-process clause of the Constitution.

The extent to which aboriginal or Indian title is to be recognized is exclusively a policy matter for Congressional determination. In the past, Congress has repeatedly shown great respect for aboriginal title and has dealt most generously with the Indian people. Once the Congress recognizes the Government's obligations to pay just compensation for Indian title, the courts have consistently held that the applicable standard of valuation, in the absence of a statutory provision to the contrary, is the same as if the Indians held the property in fee simple ownership.

We have long grappled with the problem of providing a fair and equitable settlement to the Natives' land claims. We have come to realize, however, that there is no easy solution that is equitable to all. A number of proposals have been made in the past. They have, however, met considerable opposition from the various interested parties.

While S. 1964 and S. 2906 generally adhere to the principles set out by the President, we believe that they have some basic shortcomings. Upon further consideration, we now believe that the proposal (S. 1964) to grant jurisdiction to the United States Court of Claims to adjudicate a general claim on behalf of all Natives of Alaska and to render judgment based on the market value of the Natives' aboriginal title as of March 30, 1867, the date of purchase of Alaska by the United States, does not now offer the best approach to the problem. Moreover, because of the length of time involved in judicial proceedings to determine the extent of Indian title and its value, and the difficulties attendant to obtaining the detailed factual information upon which to base such a determination with respect to the vast area of the State of Alaska, we no longer recommend judicial determination of Native claims. It is our position that after weighing the equities involved and the data available, the Congress can arrive at a just solution to this complex problem.

S. 2906, on the other hand, while providing for a more generous settlement, is objectionable in three major aspects.

First, in our opinion the grant of 40 million acres to the Natives is much greater than is required to give them title to the lands they need for village expansion. The purpose of a land settlement of this magnitude is clearly to allow the Natives to select land primarily for investment purposes. While we recognize the need of the Natives for resources that will provide continuing income to facilitate their transition to a wage-oriented society, we believe this need can be met far more equitably by providing ready cash.

Second, we believe that the land selection provisions of S. 2906 are far too cumbersome and complicated. The legislation should provide a workable, speedy, and simple mechanism for granting to each Native group a sufficient amount of land to meet its needs.

S. 2906 would not be speedy. On the contrary, it would let the selection process drag on for 25 years.

Also, we continue to advocate the basic land grant provisions contained in S. 1964. They would grant to the various groups the village sites they occupy, and additional lands within the environs of those sites that will contribute significantly to the livelihood of the Natives. The maximum acreage for any group would be 50,000 acres, which should be adequate to meet the Natives' needs, both present and future.

In addition, we do not believe that there is any need for an adjudication of Native claims by a Commission. While we support the need for a Commission, its role should be directed to monitoring the use of the funds available to the villages and Native corporation. Native representation on such a Commission would clearly be desirable, but we do not believe that the legislation should provide for its control by the Natives as in S. 2906. The President should be free to choose the best people available.

Further, we are opposed to the provision in S. 2906 which would require a Federal agency to justify to the Commission that its lands are needed for public purposes, and to any provisions authorizing a grant of various wildlife and recreational reservations. We also oppose the provision related to National forests. The needs of the Native groups bounded by National forest lands can be met from the 400,000 acres of such lands allowed the State under section 6(a) of the Alaska Statehood Act.

Third, we believe that an open-ended provision for utilizing Outer Continental Shelf revenues would not be in the best interest of the Natives or the Nation. If Alaskan OCS receipts do not live up to expectations, such a mechanism as outlined in S. 2906 might result in the Natives obtaining less than adequate compensation, leaving Congress with the possibility of facing the issue again in the future. On the other hand, if the Shelf proves to be a bountiful producer, the revenues to the Natives might far exceed any reasonable relationship to the Natives' claims. It is our opinion that a more definite and more equitable solution would be to grant the Natives a fixed cash settlement, based on the value of the lands taken from them as recommended in the President's message on Indians.

In the absence of lengthy and costly litigation it is impossible to determine the precise value of the Natives' claims.

The economic needs of Alaska's Natives are unquestioned. Native housing is generally considered to be the most primitive and dilapidated of any occupied by native people in the United States. Income is lower and unemployment higher than among Indians anywhere. Increased acculturation, the absence of employment opportunities, and the ever-decreasing availability of subsistence opportunities have contributed to a growing dependence on welfare. Exposure to the white man's way of life has generated in the Native needs he had never known, without adequate means for their satisfaction.

In the valuation process there are a number of variables:

(1) The extent of the Natives' aboriginal title.

(2) The date or dates as of which the valuation should be made.

(3) The actual value of the lands on those dates.

A rough approximation of value can be derived from the Tlingit and Haida award of the Court of Claims. The Court held that the Indians had established aboriginal Indian title to virtually the entire Alaskan archipelago by their exclusive use and occupancy of that area from time immemorial. Based on the standards adopted by the Court of Claims, it is possible that the various Indian, Eskimo, and Aleut groups could establish aboriginal title to practically all of the remaining area of Alaska, roughly 350 million acres. This land would be worth over $150 million at the Tlingit and Haida valuation which averaged 43 cents an acre.

We believe that in line with the principles outlined by the President that a settlement involving up to 50,000 acres per village that will total some 8 to 10 million acres, plus the payment of $3,000 per person or $180 million, whichever is the lesser, is an equitable and just settlement for these claims. In addition, we are aware that the State of Alaska has recently passed legislation providing for payment to the Natives annually of 5 percent of the revenues derived from lands selected by the State under the Alaska Statehood Act, up to a maximum of $50 million. While we are concerned that this action has been made contingent upon this Department's lifting the "freeze" on the patenting of State selections that conflict with Native claims, we are very pleased that the State has evidenced a desire to join with the Federal Government in contributing to an equitable resolution of this problem. It is our hope that the State will see fit to amend its legislation to provide that a larger portion of its annual contributions be channeled to the Native Economic Improvement Corporation proposed in our bill in order that it may be used for projects that will provide continuing income to Alaska's Natives.

Accordingly, the enclosed proposed bill, we believe, would adequately provide an equitable settlement to the Natives.

Also, enclosed is a brief explanation of its major provisions.

The Bureau of the Budget has advised that this legislative proposal is in accord with the President's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

BRIEF EXPLANATION OF MAJOR PROVISIONS OF PROPOSED ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1968

1. The proposal would provide that the benefits accruing under legislation to the Native groups shall be in full and final settlement of any and all claims based on aboriginal use, etc., or arising under an 1884 and 1900 statute. This settlement would include claims now pending before the Indian Claims Commission under other Acts of Congress but not finalized by the Commission on the date of enactment. The proposal authorizes appropriations to pay reasonable attorney fees and expenses in connection with these claims.

2. The proposal would define Native groups

to mean tribes, bands, clans, villages, communities, or associations in Alaska composed of 25 or more Natives and approved by the Secretary.

3. The proposal would authorize the making of a grant in trust to each Native group of unwithdrawn land or village sites and additional lands for future economic and social well-being. The maximum grant to any Native group would be 50,000 acres. At any time during the term of the trust the Secretary upon application of the group and approval by him of a land use plan shall terminate the trust for all or part of the lands granted for the benefit of the said group. The land grant may include title and trust to noncontiguous lands being used and occupied by the Natives for various purposes such as burial grounds, air fields, water supply, and hunting and fishing camps. In any case where the Native villages are located in an area where there are not sufficient additional Federal lands to permit the contemplated grant, the Secretary may convey other lands which would be subject to the same conditions.

4. The land grant proposal would not apply to Native groups who are beneficiaries of the Tlingit and Haida award in the Court of Claims.

5. Lands and waters previously reserved for the use of six named Native groups shall be held in trust by the United States for their benefit for a 25-year period at the end of which time the trust may be liquidated. In addition, at any time during the term of that trust, such groups may apply for the termination of the trust upon approval by the Secretary of a land use plan submitted by them. The 50,000-acre limitation does not apply to these six groups, except, to the extent that such areas are smaller than areas that could be conveyed generally by grant and lands in the immediate vicinity of these areas are available, additional lands may be granted up to the 50,000-acre limitation.

6. The various reservations set aside by Executive order or Secretarial order for Native use shall be revoked by the grant of title under section 6 of this proposal.

7. The proposal provides for withdrawal by the Secretary from all forms of authorization under public land laws any lands which he believes may be subject to a grant to a Native group under this proposal, but the total withdrawal shall not exceed 20 million acres. The withdrawal must be revoked as quickly as possible if the grants are made and the State selection of lands withdrawn shall not be approved until the withdrawal is finally revoked.

8. Lands granted under this proposal that continue to remain not subject to State or local taxes on real estate shall be regarded as public lands for the purposes of the Federal Aid Highway Act.

9. Land granted in trust, except the underlying minerals, to a Native group shall be held by the Secretary of the Interior as trustee. The maximum term of the trust shall be 25 years and when the trust terminates it shall be liquidated in accordance with a trust instrument or if there is not any, as prescribed by the Secretary or as prescribed in sections 5 and 6 of the proposal. The Secretary acting as trustee would have all the powers set forth in the deed of trust, including the right of disposal of the land except the mineral interest.

10. The proposal would grant the underlying mineral interest in lands granted under this legislation in trust or in fee to a Native group to the Native Economic Improvement Corporation established by this proposal, together with the right to mine and remove such minerals under lease. The Corporation would hold the minerals in trust for the benefit of each group and would administer and manage the trust in accordance with the applicable provisions of the proposal. If the trust is terminated by reason of dissolution of the Corporation or by subsequent Act of Congress, the Secretary shall convey the minerals in fee to the appropriate Native group.

11. The proposal would establish a single nonprofit statewide Native Economic Improvement Corporation designed to promote the economic opportunities of the Natives and their descendants in Alaska. The Corporation would be organized under the laws of Alaska and shall be composed of directors elected by the Natives in Alaska in a manner that would assure adequate representation of all of the Natives and their descendants. The directors would appoint a manager of the Corporation and he would be responsible to carry out the Corporation's functions in a business-like manner. The Corporation would, among other things, promote private investment, foster surveys and studies for programs of improvement and development, develop, establish, and operate various business enterprises, invest in business enterprises, make long-term, low-interest loans to Natives in Alaska or Native groups, make grants to the Native groups for publicly sponsored projects which would benefit the entire group and lease on a competitive basis the minerals held in trust by the Corporation. In the case of mineral receipts, the Corporation would have available to it one-half of the total receipts and would distribute the other half to the Native groups having title to the surface lands in which the minerals were developed. The Corporation would not be a Federal instrumentality for any purpose. The Corporation must maintain complete and accurate books and records and would be generally supervised by the Alaska Native Commission established by this proposal.

12. The proposal provides for the establishment by the Secretary of a roster of Native groups and a roll of Natives and their descendants eligible to vote in any election held pursuant to this proposal.

13. The proposal would authorize the Secretary to permit, in accordance with applicable Federal and State laws and with the consent of the administering agency, Natives of Alaska to use public lands in Alaska for 50 years or less exclusively for hunting, fishing, trapping, and berrypicking. In the case of any lands that are patented or leased pursuant to the Alaska Statehood Act or any other public land laws such lands shall contain a reservation to the United States of the right to issue such a permit for nonexclusive hunting, fishing, trapping, and berrypicking purposes for up to 50 years from the date of enactment of this proposal.

14. The proposal would grant to the Natives a sum of money which would be established in one of two ways: (1) it could be computed on the basis of $3,000 for each Native in a Native group, except that, in the case of any Tlingit and Haida Natives in the group, their share of the money judgment would be deducted, or (2) the payment would be a lump sum not to exceed $180 million, whichever is the lesser. The payments would be made into a special account in the Treasury for the benefit of the Native groups and the $180 million is the maximum amount of the payment. Each year the Secretary would apportion 90 percent of the payment in the account to the Native groups to be used by them in any manner that is authorized by their governing body and is approved by the Alaska Native Commission. The remaining sum in the account would be distributed to the Corporation. These payments would be made over a 5-year period beginning in fiscal year 1971.

15. The proposal would authorize the establishment of an Alaska Native Commission composed of 3 members appointed by the President and the majority of whom shall be residents of Alaska for one year or more preceding appointment. The Commission shall be located within the Department of the Interior and shall have duties as established by this proposal and other duties the Secretary may delegate.

16. The proposal provides for appropriations to carry out the provisions of this legislation.

S. 3588—INTRODUCTION OF BILL RELATING TO ALASKA'S DISASTER URBAN RENEWAL PROJECTS

Mr. BARTLETT. Mr. President, I am today introducing, for appropriate reference, a bill which would correct an inequity which has inadvertently developed in handling funds authorized by the 1964 amendments to the Alaska Omnibus Act, Public Law 88–451. Those amendments authorized the appropriation of $25 million for urban renewal projects in those communities of Alaska involved in the reconstruction and redevelopment made necessary by the earthquake of March 27, 1964. Property damage and loss was extensive. The need for Federal aid was urgent, and the Congress responded promptly and generously.

The authorization expired on June 30, 1967. The law contained a provision, however, that obligations incurred prior to the expiration date would be honored even after that date.

The entire emergency fund authorized by Public Law 88–451 was obligated or committed before June 30, 1967. Thereafter, additional money became available under the regular urban renewal authorizations, and financing for several of the previously authorized projects was authorized from that source. The result was a reduction of approximately $851,000 in the funds previously committed. Although these funds have been released from the purpose for which they were originally committed and might otherwise be available for expenditure, they cannot be because of the technical requirement imposed by the June 30, 1967 deadline.

I am informed by the Alaska State Housing Authority, Mr. President, that this money can be used to help pay the cost of eight disaster urban renewal projects already underway in Anchorage, Kodiak, Seward, Valdez, Seldovia and Cordova. All of these projects were authorized under Public Law 88–451, before the June 30, 1967 deadline, but some will not be completed until mid-1970. Rapidly changing economic conditions and high acquisition cost awards by the Alaska courts have increased project costs beyond the amounts obligated a year ago. Since there is money from the original $25 million disaster fund still available, I see no reason for its not being used to help meet the increased costs of these disaster projects.

The bill I am introducing today will involve no additional cost to the Federal Government. It merely permits the use of money already appropriated which otherwise would be returned to the general fund. It is money which well can be used within the purposes of the 1964 legislation. I urge prompt enactment of this bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3588) to amend the 1964 amendments to the Alaska Omnibus Act, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 3589—INTRODUCTION OF BILL TO DESIGNATE U.S. HIGHWAY 41 IN INDIANA AS PART OF THE INTERSTATE HIGHWAY SYSTEM

Mr. BAYH. Mr. President, I am introducing, for appropriate reference, a bill which would designate U.S. Highway 41 in Indiana between Chicago, Ill., and Evansville, Ind., as part of the National System of Interstate and Defense Highways. Although portions of this highly traveled, key route have been converted to a divided, four-lane system approaching freeway standards, the bulk of it is still a narrow, two-lane road which is noted for its very high accident rate and for long delays in the movement of traffic.

Mr. President, the present U.S. 41 through Indiana is one of the major north-south corridors followed by much of the motor vehicle traffic between Chicago and Kentucky, Tennessee and other Southern States. It is the shortest, most direct route for those traveling from Nashville and other cities to the metropolitan area of Chicago. In addition to Evansville, a city of approximately 150,000 population on the Indiana-Kentucky border, U.S. 41 also services the major cities of Terre Haute and Vincennes, plus many smaller communities on or near the right of way.

Both Evansville and Terre Haute are heavily industrialized cities. Large quantities of products manufactured or processed there or in nearby communities are carried by motor truck to Chicago. In addition it is a rich farming area from which flows a constant stream of agricultural goods. When combined with the heavy commercial and tourist traffic moving interstate between Illinois or Northern Indiana and points south of the Ohio River, the present highway has long proved to be a major bottleneck.

Mr. President, the National System of Interstate and Defense Highways was first authorized in 1944, but it was not until Congress in 1956 provided for Federal payment of 90 percent of the basic cost that the program began in earnest. In the last 12 years great progress has been made toward the construction of this magnificent network of travel arteries. Approximately 26,000 miles, or nearly two-thirds, of the authorized 41,000 miles system has been completed and is open for use, and excellent progress has been made on the planning, engineering and building of much of the rest. There can be no doubt that the Interstate System has been a direct factor in helping to prevent countless accidents and in saving many injuries and lives. Likewise, it has served to speed up the movement of people and goods and has resulted in sizable savings in fuel and repair costs.

Bills now under consideration would extend for 2 years the completion of the Interstate System and would increase basic authorization for appropriations for this purpose. A number of measures have been proposed which would boost the total mileage for the Interstate System, bring particular highways within its scope, and establish a new program with 75 percent Federal contributions to improve the Federal-aid primary system. These and other proposals should receive careful consideration by Congress so that proper planning for the continued development of our vital highway needs can proceed in the near future.

Mr. President, U.S. 41 in Indiana should be given high priority among those highways which will be evaluated for possible inclusion in the Interstate System. Year after year it has proven to be one of the most dangerous roads to travel in my State. During the year 1967 alone there were 49 persons killed on the 281 miles of its length from border to border. That is an average of one death per year for each 5.73 miles. It is time to stop this needless slaughter of our citizens. As an illustration of the life-saving advantages derived from modern throughways, let me point out that nine times as many motorists were killed last year on our primary road system than on the completed sections of interstate highways, although the latter handled about one-third as much traffic as the former. As a matter of fact, there were 33 fewer casualties incurred on the 635 miles of interstate in use last year than there were on the 531 miles of two of Indiana's old primary roads, U.S. 41 and U.S. 31. As one of the vital links between major metropolitan areas and as a direct North-South route, U.S. 41 between Illinois and Kentucky ranks among the highways most in need of reconstruction. In view of the fact that the fatality rate on modern interstate throughways in Indiana is four times less than that on our wornout, inadequate two-lane roads, I strongly believe that the time has come when every effort must be made to eliminate these death traps. Mr. President, I urge that this bill receive prompt and favorable considerable.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3589) to provide that the highway known as U.S. Highway No. 41 between Chicago, Ill., and Evansville, Ind., shall be designated as part of the National System of Interstate and Defense Highways, introduced by Mr. BAYH, was received, read twice by its title, and referred to the Committee on Public Works.

EXTENSION OF CERTAIN LOANS, GUARANTEES, AND INSURANCE IN CONNECTION WITH EXPORTS FROM THE UNITED STATES—AMENDMENT

AMENDMENT NO. 839

Mr. TOWER. Mr. President, on May 14, I stated in the RECORD my reasons for supporting S. 3218. I would reemphasize now that in my opinion, the provisions of the bill would not make a soft-money institution of the Export-Import Bank. I believe that the passage of the bill will be an important legislative step toward assisting our balance-of-payments problem.

There is no need for the Export-Import Bank to turn to so-called soft-money operations under the terms of S. 3218. However, to further establish the assurance that soft-money terms will not be used by the Bank in assisting developing countries, I am submitting an amendment to S. 3218, and ask that it be printed at this point in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table, and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 839) is as follows:

On page 3, beginning with "except" in line 18, strike out all through line 21 and insert the following: "except as to the standard of reasonable assurance of repayment required under section 2(b)(1) of that act, all loans, guarantees, and insurance extended hereunder shall be subject to the provisions of that Act and to the policies of the Bank with respect to terms of repayment, interest rates, fees, and premiums applicable to loans, guarantees, and insurance extended under that act."

Mr. TOWER. The amendment, similar to one incorporated in the House bill, H.R. 16162, in committee, would require the Bank to continue its previous policy with respect to terms of repayment, interest rates, fees and premiums applicable to loans, guarantees and insurance under the Export-Import Bank Act of 1945 as amended.

Throughout the Bank's existence, the interest rates charged have been determined by the cost of money to the Bank. Terms and other conditions of the Bank's participation have been fixed primarily upon consideration of the obsolescence of the equipment financed or due to competitive conditions in Europe.

These policy guides need not be changed by the enactment of S. 3218.

The congressional mandate in the basic act requiring "reasonable assurance of repayment" restrains the Bank from an opportunity to finance substantial exports to emerging developing countries and to countries in which Eximbank commitments are so high that the Board is reluctant to make additional loans at the present time.

In neither of these instances, however, would changing of rates, terms, or conditions affect the Board's determination of assistance because buyers, with few exceptions, have no way of making purchases under financial arrangements in Europe which would differ to any marked degree from present Eximbank terms.

Mr. President, let us review for a moment the existing conditions faced by the Bank and by some of the emerging developing countries.

Korea, Taiwan, Thailand, Turkey, and possibly Indonesia present economic conditions whereby the Bank Board may find it difficult to make a current determination that additional assistance by the Bank in those countries would have "reasonable assurance of repayment." But, economic improvement is being brought about at a fast pace.

We find substantial free enterprise investments moving into these countries, particularly in Korea. American banks are active in those countries on a cautious note. European countries are active and permitting large numbers of loans.

A new look by the Eximbank Board at the expanding economic conditions of these countries might well bring forth additional Bank participation, despite existing commitments which were based on the basic requirements of "reasonable assurance of repayment."

Let us look at some countries where

Eximbank commitments are currently very high. Examples are Argentina, Brazil, Chile, and several others.

Eximbank has financed exports to these countries over a period of many years, and the Bank Board today may rightfully feel that it has reached a limit in its financing under the congressional mandate of "reasonable assurance of repayment."

However, there are many instances in these countries where an additional loan would have a good prospect of repayment. One of our airframe manufacturers, for example, has an order in Brazil for the sale of six aircraft which could be consumated with Eximbank financing. Another U.S. exporter has an order for substantial machinery in Chile which could be completed if Eximbank does the financing.

It is natural that the Bank Board, with millions of dollars on the books in these two countries, would hesitate to make further commitments.

In these cases, the Bank might well make the judgment that "there is a good prospect of repayment," but not a judgment of "assurance" of repayment.

Again, I point out, Mr. President, that there is no need for the Bank to soften its terms and interest rates on a competitive basis.

It may also be pointed out that the Bank has various divisions, such as an engineering division, a group of economists and financial experts, and each loan is subject to the appraisal and evaluation of these technical groups. This economic feasibility and financial evaluation would also apply to loans under S. 3218.

Finally, all prospective actions under S. 3218 by the Bank would be carefully scrutinized by the Advisory Committee incorporated in the proposed legislation.

Mr. President, I believe that the adoption of my amendment would negate a good portion of the objection to S. 3218.

CORPORATION FARM HEARINGS CONTINUE IN UPPER MIDWEST

Mr. NELSON. Mr. President, the Monopoly Subcommittee of the Senate Select Committee on Small Business will hold the second in a series of hearings on the effects of corporation farming on small business and on the economic and social structure of rural America beginning at 9 a.m. on Monday, June 10, 1968, in the Eau Claire County Board Room, 731 Oxford Avenue, Eau Claire, Wis.

Our hearings 2 weeks ago in Omaha documented the fact that large congolmerate corporations and other absentee interests are acquiring vast tracts of agricultural land across the Great Plains once owned and farmed by family farmers. Testimony asserted that water resources are being depleted by massive irrigated farming operations. Witnesses asserted that rural communities and businesses are suffering and family farmers are being pushed off the land.

Now we want to explore the implications of corporation farming in the upper Midwest and will hear testimony from businessmen and bankers as well as farmers and rural residents from Wisconsin, Minnesota, and the Dakotas.

It is a very real possibility that corporate ownership of the land could lead to corporate control over our country's food production with food prices to consumers dictated by syndicates rather than being determined by competition.

ANNOUNCEMENT OF HEARINGS ON PRETRIAL RELEASE

Mr. HRUSKA. Mr. President, on behalf of the Senator from North Carolina [Mr. ERVIN] chairman of the Judiciary Committee's Subcommittee on Constitutional Rights, I wish to announce that the subcommittee will hold hearings on July 16, 17, 18, 23, 24, and 25 on the operation of the pretrial release system in Federal courts in room 2228, New Senate Office Building. These hearings will be the first of a series designed to conduct a comprehensive study of the administration of the Bail Reform Act of 1966 and related laws and procedural rules, and to consider legislative changes and operational improvements to facilitate the administration of the act in the light of experience gathered during the 2 years the act has been in effect.

Mr. President, the purpose of the Bail Reform Act of 1966 was to revise bail practices in Federal courts to assure that no accused persons, regardless of financial status, should be detained pending their appearance in court to answer criminal charges, to testify, or pending appeal, when detention would serve neither the ends of justice nor the public interest. Studies prior to 1966 by the Subcommittee on Constitutional Rights and other public and private agencies and individuals had demonstrated that the Federal bail system was characterized by an undue reliance on money bail set in an amount based largely upon the crime charged rather than in an amount which would reasonably assure the appearance of the defendant in court. These studies starkly documented the grave consequences of pretrial detention for the alarmingly large numbers of persons who were unable to post even nominal money bail.

In addition to being forced to undergo the psychological and physical deprivations of jail life while still untried and presumed innocent, many defendants lost their jobs and were unable to provide for their families, were unable to assist in the preparation of their defense, and were thus more apt to be convicted and punished than were released persons. Added to these minus factors was the great cost to the public of pretrial detention of large numbers of defendants. On the other side of the coin, the studies showed that overreliance on money bail resulted in a failure to take into account the most reliable indicia of likelihood of return for trial—the personal circumstances and background of the defendant. For many defendants, the risk of financial loss proved to be no deterrent to flight, whereas character and community ties of many others were in most cases sufficient to assure their reappearance in court. Experimental bail projects in large cities, including New York, Philadelphia, and the District of Columbia, proved in practice that a careful inquiry into the facts concerning defendants' character and community ties would enable the courts to release large numbers of defendants without bail with no increased risk of flight to avoid trial.

The Bail Reform Act of 1966 established as Federal law the two primary principles that evolved from these studies—that pretrial custody should be minimized by releasing as many persons pending trial as possible upon the least restrictive conditions appropriate under the circumstances, and that financial status should be irrelevant in the pretrial release decision.

The act requires that any noncapital defendant be released pending trial upon personal recognizance or unsecured bond unless the facts bearing on his character, circumstances, and community roots indicate that his release should be conditioned in some fashion to assure his reappearance in court. In the latter case, the judicial officer may employ a series of release conditions, depending upon individual circumstances, ranging from release in the informal custody of a responsible person or organization to release only during working hours. The conditions of release are arranged in priorities so as to relegate money bail to a position of last resort and, even then, an unsecured bond coupled with a refundable 10 percent cash deposit is preferred. Defendants in capital cases and convicted defendants awaiting appeal may be detained outright under the act if the evidence suggests that application of the release provisions would entail a risk of public harm or flight.

Mr. President, there is little question that, during the 2 years since its enactment, the Bail Reform Act has proved to be a great step forward in Federal criminal procedural reform. Greater numbers of defendants have been able to secure their release pending trial with all the attendant benefits to the defendants and the public, and with no increase in the flight rate. There is also little question that, notwithstanding these improvements, the act has not fully accomplished the purposes for which it was designed, particularly in the District of Columbia, the only Federal jurisdiction where the courts are required to handle a large volume of trials for ordinary crimes of violence. Soon after its implementation in the District of Columbia, the act became the subject of much criticism by judges, lawyers, and law enforcement officers, who felt that its mandatory release provisions required the release of many dangerous defendants who previously could have been detained by the sub rosa expedient of setting high money bail.

As proof of the folly of such practices, these critics pointed to the alarming incidence of crimes committed by persons released under the act pending trial. It was suggested by some persons that the act be repealed and by others that it at least be amended to permit judges to take the defendant's alleged dangerousness to the community into consideration in setting release conditions. Many responsible persons suggested that the act be amended to authorize the outright detention of defendants considered to represent a high risk of further criminal conduct.

Responding to this criticism of the act, the Judicial Council of the District of Columbia Circuit last November ap-

pointed a committee to study the operation of the act in the District of Columbia and to recommend any legislative or administrative changes deemed necessary. The committee, under the chairmanship of U.S. District Court Judge George L. Hart, Jr., included representatives of virtually every segment of the law-enforcement establishment in the District of Columbia. After 6 months of careful study the committee published its excellent report last month and it was approved by the Judicial Conference at its meeting on May 23. The same week, the American Bar Association Project on Minimum Standards for Criminal Justice had released a tentative draft of proposed "Standards Relating to Pretrial Release" based upon a 3-year study by a distinguished national committee of judges, law-enforcement officials, law professors, and practicing attorneys.

Both of these reports wholeheartedly endorsed the basic premises and purposes of the Bail Reform Act. The Judicial Council Committee report stated:

> It must be patent to all that the Bail Reform Act is designed to carry out the theory, the spirit and the express and implied provisions of the Eighth Amendment's proscription against excessive bail, the Judiciary Act of 1789 and Rule 46(c) of the Federal Rules of Criminal Procedure. The Act is a great step forward in that it insures the carrying out of the basic law on bail which has been ignored so long.

The committee concluded that the failure of the act to fully accomplish its designed purposes in the District of Columbia was due primarily to the fact that "in practice the act has not been administered with maximum undertanding and effectiveness in this jurisdiction" and the fact that "there has been little consistency in the application and operation of the act." The committee's recommendations, therefore, deal primarily with "administrative, operational improvements," although some legislative changes are recommended. The conclusions and recommendations of the American Bar Association Project closely parallel those of the Judicial Council Committee.

The Subcommittee on Constitutional Rights will use the conclusions and recommendations of these committees as the starting point for its study. It will also consider some of the specific legislative proposals that have already been introduced in both Houses of the Congress. Like the Judicial Council Committee, the subcommittee will start with the premise that the Bail Reform Act is basically sound and that the need is for a more efficient and effective use of the range of pretrial release conditions authorized by the act.

The subcommittee will seek to devise means of encouraging judges to make more thoughtful use of the release restrictions authorized by the act as a means of controlling the activities of released persons and thus reducing the criminal activity of those on bail. It will consider recommendations for better methods of securing and verifying background information necessary for a rational bail determination, for providing sanctions for violation of release conditions to make them more effective, and for increased cooperation among the various agencies and individuals involved in the operation of the pretrial release system.

The subcommittee will give careful attention to recommendations for amendments to the act to authorize judicial officers to consider the alleged danger to the community posed by a defendant in considering what conditions of release to impose or, indeed, whether to detain him. It has been recommended by the Judicial Council Committee and others that judicial officers be given such authority in all cases or at least during the existence of a civil disturbance such as the recent riots in the District of Columbia. Careful attention will be given by the subcommittee to the very sensitive constitutional and practical problems posed by any provision for partial or complete denial of pretrial release based not upon conviction for a crime already committed, but upon the alleged predictability of future criminal conduct.

In considering the question of detention, either in the first instance or upon rearrest for further crime or violation of conditions of release, the subcommittee will give special consideration to the requirement for expedited trial of detained persons. It will seek means of assuring that any detention authority is dependent upon the speedy trial of detained persons with a view to keeping time in custody to an absolute minimum. It will also inquire into the relationship between the length of delay in trial and the commission of further crimes by those who are released. The ultimate goal of the subcommittee's study will be to recommend legislative and administrative changes necessary to revise the Federal pretrial release system to assure the pretrial release of as many persons as possible upon conditions appropriate to minimize the likelihood of flight or further criminal conduct, while authorizing the absolute minimum pretrial detention power consistent with public safety coupled with the assurance of prompt trial of detained persons.

Invited witnesses for this first series of hearings will include members of the Judicial Council and the American Bar Association committees, representatives of all law enforcement and correctional agencies in the District of Columbia and other Federal jurisdictions, representatives of the Vera Institute bail project in New York and similar projects, law professors and practicing attorneys. It is the subcommittee's intention to hear from the broadest spectrum of opinion possible upon which to base recommendations and additional legislation.

SENATOR McGOVERN FINDS WASTE IN DEFENSE SPENDING

Mr. YOUNG of Ohio. Mr. President, on numerous occasions I have spoken out denouncing wasteful Defense Department procurement practices that have cost taxpayers billions of dollars in recent years. In particular, I urged compliance instead of lipservice by Defense Department officials with the 1962 Truth-in-Negotiating Act, and have introduced legislation which would strengthen the Renegotiation Board to enable it to perform effectively the function for which it was created—to act as an alert Government sentry against war profiteering.

Unfortunately, waste in defense spending continues. Perhaps the most flagrant recent example was the awarding of contracts for the M–16 rifle by officials of the Department of Defense. In the past, Colt Industries was permitted to make a profit of 1,400 percent on resale of manufacturing rights and in royalties and production guarantees on this weapon. Now, officials of the Defense Department have utterly disregarded competitive bidding for secondary sources for production and procurement of the M–16 rifle. Contracts were awarded to two firms which came to $55 million and $42 million respectively in expenditure of taxpayers' money. This, despite the fact that another firm equally capable of doing the same job submitted a bid of $36 million. This is just one item of many in which hundreds of millions of dollars have been wasted by Defense Department procurement officials.

Mr. President, the distinguished junior Senator from South Dakota [Mr. McGOVERN] has long been one of the strongest advocates in the U.S. Senate for stricter procurement policies in the Defense Department. Senator McGOVERN recently wrote an excellent article entitled "McGOVERN Finds Waste in Defense Spending," which appears in the June issue of the Great Plains Observer, a magazine published in Madison, S. Dak. In his article he clearly and concisely points out the present intolerable state of affairs in the military procurement program. I commend our colleague's article to the attention of all Senators and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

McGOVERN FINDS WASTE IN DEFENSE SPENDING

South Dakota's Sen. George McGovern, who has tangled repeatedly with the Pentagon on Vietnam policy, has challenged the military's top brass on another front: weapons procurement.

In a second Senate speech on the subject in mid-May, McGovern traced the history of the awarding of contracts for the new Army M–16 rifle, pointed out that the U.S. taxpayers are giving General Motors $316 per rifle and Colt Industries, Inc. $104 each for the same rifles, and suggested that "something is drastically wrong in the Pentagon's procurement policies."

The South Dakota Democrat's investigation followed publication of a United Press International story which noted that Harrington and Richardson Co., Worcester, Mass., had been awarded a contract of $15 million to turn out 60,000 of the new rifles, and GM had been given a contract of $19 million for the same number of identical rifles.

McGovern asked why. And in pursuing his inquiry, he found that the discrepancy was only a small segment of the puzzle.

The chain of events concerning the M–16, as reported to the Senate by McGovern:

Colt had for some years held the proprietary rights to the M–16, and produced the light-weight rifles—designed to replace the standard M–1 rifle of World War Two and Korea—for $104 each. In 1964, Colt offered to sell proprietary rights to the government under a plan which would have cost the taxpayers $600,000. The Pentagon declined. Then in 1967, the U.S. purchased those rights—for $4.5 million.

The U.S. wanted proprietary rights, said Dr.

Robert Brooks, Assistant Secretary of the Army, to insure a solid source of supply, possibly when more than one supplier was available. Furthermore, Dr. Brooks said, "we also anticipate there will be a saving, of course, from the competitive procurement as established."

Then the contracts were let—and under the Pentagon's "competitive procurement," taxpayers wound up paying two to three times as much per rifle as they did when Colt was sole supplier. And Dr. Brooks himself shot down the argument that a secondary source of supply was needed to meet an immediate demand, stating "we could obtain the rifle through a straight expansion of Colts somewhat sooner than by the establishment of a second source."

"It appears that once the error was made," Sen. McGovern told the Senate, "the Pentagon decided that it had to compound it by actually developing the secondary source using some form of inverted reasoning to conclude that a failure to make use of the proprietary rights would have amounted to a waste of $4.5 million."

But the eyebrow-raising doesn't end with that decision.

Total contracts awarded to GM and Harrington and Richardson for 240,000 rifles came to $55 million and $42 million, respectively. One of four firms judged technically capable of doing the same job was Maremont Corp. of Saco, Maine; its bid for the same work was $36 million. It was turned down.

Why?

The Pentagon, in answer, listed such factors as the number of college grads on Maremont's payroll, and the age of Maremont's production equipment.

"I suppose there is some perceptible relationship between the educational attainment of a company's employes and its productive abilities," Sen. McGovern said. "I cannot see, however, how it could conceivably make a difference of some $19 million in the price we are willing to pay for 240,000 rifles.

"The age of Maremont's existing equipment is even less relevant, since 100 per cent of the facilities for producing the M–16 are to be supplied by the Defense Department."

The Army, McGovern said, told Maremont it has more confidence in GM and H & R—despite the fact that GM had never made a rifle in its corporate life, and Maremont has built over 100,000 M–60 machineguns, as sole supplier of that weapon for the Defense Department. "Certainly its reliability has been well established," McGovern said.

An Army spokesman's answer to the issue was that the taxpayer needn't worry, the "Renegotiations Board" will step in and correct the situation if it turns out the gunmakers are making a killing beyond the "normal" profit off of weapons. However, McGovern pointed out, the powers of the Renegotiations Board—which can change terms of a contract in cases of excess profiteering—has been stripped of much of its powers since it was established during the Korean War.

"I have no doubt that the questions I am raising would be widely welcomed were they directed to the Office of Economic Opportunity, the Department of Agriculture, or virtually any other agency of the government. I think it is time for a similar standard to be applied in the case of military procurement . . .

"Far from contributing to our security, wasteful defense expenditures undermine our national strength. The funds that we do appropriate are less effective than they should be, and the dollars wasted are diverted from more pressing needs.

"I consider these questions to be profoundly serious, not only because they suggest waste of the nation's financial resources, but also because they have a direct bearing on the combat and defense capabilities of the young men we have committed to battle in Vietnam," McGovern said.

"I have sharply differed with the policies that have involved American forces in that tragic conflict. But I regard our responsibility to supply them with the best possible equipment and support as a most urgent and demanding duty, to say nothing of the economic considerations involved.

"If preference for a particular weapon's supplier or a desire to cover past mistakes has interfered with that obligation, then we are faced with an intolerable state of affairs in the military procurement program . . ."

SAIGON—CENTER OF CORRUPTION

Mr. SYMINGTON. Mr. President, it is no secret that for a long time I have been opposed to the quantitative way this war is being fought, with heavy shackles on our airpower and seapower, at the same time the capacity of both these services is consistently denigrated, not only by former members of this administration, but also by various candidates for office.

Some of these people apparently want to continue pressing forward in this ground war, one of us for one of them in the Asian jungles, their rifles at least as good as ours, their knowledge of the terrain incomparably superior, their expertise in guerrilla warfare.

Others want to retreat to some form of holding action, continue the killing and the heavy cost, in effect agree to an indefinite stalemate.

More and more the average citizen has the right to ask, "What is any true definition of victory in Vietnam? We know what we have lost and are losing, but what do we win if we win?"

In this connection, in the Saturday Evening Post of June 1, there is an article entitled "Our Own Worst Enemy: A First-Hand Report on the Corruption That Is Sabotaging Our Effort in Vietnam."

I personally have seen these black markets but a few steps from the American Embassy, with needed but unavailable field boots, nevertheless for sale in said markets at much higher prices.

Inasmuch as we are operating as "guests of the South Vietnamese Government," the clearing up of this corruption is not a problem for the United States, rather a problem for the Government of South Vietnam; and the fact that over the years that Government has been able to do little about it, casts grave doubts as to whether it is a Government that should continue to merit this degree of support, support which has already cost the lives of over 700 young men from my own State.

From the article in question, I ask unanimous consent to include the first section at this point in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

[From the Saturday Evening Post, June 1, 1968]

OUR OWN WORST ENEMY

(By William J. Lederer)

"Without American money, guns, food, medicine and supplies, we of the National Liberation Front would have a hard time surviving. . . ." (Maj. Pham Van-linh, logistics officer for the National Liberation Front (Viet Cong)—in an interview in Saigon, June 1967.)

Every government we have helped into power in Vietnam has been inadequate; and all of them have been rejected by the Vietnamese people. First it was the French; next Ngo Dinh Diem; and then, after a period of coups and counter-coups, the military junta headed by General Thieu and Marshal Ky.

One of the measures of inadequacy is the degree of governmental corruption. I am speaking of excessive corruption, not the accepted Asian practice of reasonable "cumshaw" for services rendered, which grew from a tradition of low salaries for government officials. Vietnam corruption has gone far beyond the traditional. It has, for example, become the usual method of acquiring government positions and the usual reason for wanting them—from top to bottom, from cop to high-ranking general or province chief.

My first experience with the Vietnamese black market occurred in Saigon. I told the Army public-relations officer at JUSPAO (Joint United States Public Affairs Office) that I planned to go out with the troops, and asked where I could buy jungle fatigues and jungle boots.

"We have lots of goodies for reporters if they have the right papers," he said, handing me an authorization to buy Army uniforms.

A friend took me, on the back of his scooter, to the big PX in the Cholon district. Outside the compound, with its sandbags and U.S. armed guards, was a place for customers to park their vehicles. As the vehicles were parked, small Vietnamese boys ran up, their hands outstretched, demanding "watch-your-Jeep [or scooter] money." They wanted money to stop "someone" from cutting ignition wires or letting air from tires.

I angrily told a PX officer about the situation. He replied, "The street is Vietnamese territory. We are guests in this country. We have no jurisdiction over anything that happens in the street.

Those kids can sell stolen PX merchandise out there, and we can't touch them. Only the Vietnamese police can do anything. We are guests in this country—and that's the way General Westmoreland has ordered it.

I made the obvious remark that it was a strange way to treat guests who were dying by the thousands to protect their hosts.

The major shrugged and said, "This is their country. We are fighting and dying in combat because we have permission from the Vietnamese to be on those battlefields. Parking scooters on their streets is something else."

A sergeant took me to the uniform shop, but when I gave the clerk my authorization, he shook his head. "We haven't had fatigues or jungle boots for months."

"When are you expecting them?"

He held up his hands and shrugged.

My friend and I returned to the street, mended the cut ignition wire on the scooter, and returned to JUSPAO. There I told the public-relations officer that the store did not have jungle uniforms. He laughed and said that I would have to find them where he and his men did—on the black market. "They may charge you a couple of bucks more, but the gear is always available and in all the sizes anybody could want."

I walked down the street past the USO and the flower markets and the sidewalk restaurants. It took about five minutes. And there was the "Little Black Market" (the name implying that there were bigger places elsewhere).

Stalls crowded and leaned against each other, as in any Oriental bazaar. Hundreds of customers milled about, pushing and inspecting the merchandise. Among them were four U.S. Army noncommissioned officers, one Army captain, and a U.S. Navy yeoman. Four Vietnamese policemen stood about, keeping order.

In the stalls were all the most desirable items from the PX.

I noted transistor radios, blankets, toasters, electric blenders, watches, clocks, pens, cigarettes, tobacco, shirts, television sets, cameras, film, toilet articles, patent medicines, shirts, lingerie, socks, and a variety

of the best-advertised American liquors, as well as cans of just about every kind of food available in the Army commissary.

I asked a Vietnamese official if it were not against the law to sell merchandise stolen from the PX. He replied that it was, but that there was no proof this merchandise was stolen. I pointed out that almost every item still carried the PX label, and that the PX was most certainly the only local importer of them.

"That is true," he said, "but in this country, for goods to be declared stolen, we must catch someone in the act of stealing them. One must be very careful in making charges. Perhaps the 'PX' stamped on that bottle of brandy is a brand name, is that not so?"

I continued up and down the stalls looking for uniforms and jungle boots. There were none visible. Then one of the black-market operators came up and, speaking in English, asked me what I wanted. When I told her, she said, "All complete uniform. Everything. Helmet. Pants. Boots. Shirt. Everything. Forty-eight hundred piasters or thirty dollars. You want?"

"I want to see them."

"You buy them if they all new and right size?"

"Yes, of course I will. Do I pay you now?"

The woman turned to a boy, spoke to him in Vietnamese and gave him a piece of paper. "Go with boy. Pay when you get clothes."

The boy took me several blocks along the street and into a store that had copper pots in the window. The boy went to an old man who was clacking an abacus. Without speaking, the old man led me out the back of the store, across a yard, into an alley which stank of rotten vegetables, and then up two flights of equally smelly dark stairs into the loft of another building.

The place looked like a U.S. Army ammunition depot. Everything seemed to be painted brown and to smell of oil or fresh paint. Equipment was arranged in orderly rows, and printed price tags hung from everything. Automatic rifles were $250. A heavy mortar was priced at $400. There were about 1,000 American rifles of different kinds standing neatly in racks. M-16's cost $80. On one side of the loft were uniforms of all services, including the U.S. Air Force. There was even U.S. Navy diving equipment.

The old man inquired as to my size, and then brought me the uniform and the boots I wanted.

Later that evening I talked about the black market to an old friend whom I shall call Tran Trong Hoc (and of whom I'll speak more later). He said, "What you saw is nothing. Go down to the waterfront some day and see how the big operators work. The whole South Vietnamese Government is involved."

"Any Americans?"

"Plenty are becoming millionaires—exactly as happened when the U.S. Army occupied Japan and Germany. You can be sure of this, because illicit dealings in Vietnam total about ten billion dollars a year—all in American goods and moneys. This could not exist without American collusion. It would be impossible."

I did not answer.

"We'll go to the waterfront in a few days," said Tran Trong Hoc, "and watch the big operations. We have to plan it well. If we are not careful, neither of us will be alive to tell what we saw."

AMENDMENT OF THE INTERSTATE COMMERCE ACT—BILL PLACED ON THE TABLE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 560, S. 1314, to amend section 303(b) of the Interstate Commerce Act to modernize certain restrictions upon the application and scope of the exemption provided therein, be indefinitely postponed and placed on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING AGE SHOULD BE LOWERED TO 18

Mr. YOUNG of Ohio. Mr. President, the Congress should without delay act affirmatively on President Johnson's forthright call for lowering the voting age to 18 years. I am hopeful that the Committee on the Judiciary will soon report favorably Senate Joint Resolution 8, the proposed constitutional amendment introduced by the distinguished majority leader, to enable 18 year olds to vote in all elections.

Frankly, I personally believe that a constitutional amendment is not necessary for this purpose and that the voting age in Federal elections could be lowered through regular legislative process. It is my view that the precedent set in abolishing the poll tax and literacy requirements in Federal elections indicates that such action by the Congress would be upheld by the courts. Certainly, the attempt should be made without further delay and thereby enable millions of Americans who are 18, 19, and 20 years of age to vote in the forthcoming November elections.

Today, young men and women 18 years old are better educated and better informed citizens than were those with college degrees 25 years ago. I wholeheartedly agree with President Johnson's statement last week that this generation of young people is the best ever—that they are healthier, quicker of mind and better trained than their predecessors. Also, that there is a moral energy in this generation that exceeds any of previous generations.

Four States—Georgia, Kentucky, Alaska, and Hawaii—permit voting by citizens before they attain the age of 21. It is high time that the rest of the Nation follows suit. There is no reason for assuming that 18, 19, and 20 year olds are not capable of casting a responsible vote. More of those young people have completed high school and more are attending college than ever before in our history. They are clearly as capable as other Americans in the effective use of the franchise.

Over the years I have met with hundreds of groups of college students and high school students and other young people. I know that today they are better informed than many others in our society. Their interest in public affairs and their potential for public service at home and abroad has been clearly shown through their participation in the Peace Corps, VISTA, and through the active part that millions of young Americans have played in the political events of recent years.

What reason can be given for considering an American old enough to fight in Vietnam—or anywhere else, for that matter—but not old enough to vote for those who determine where and when he shall fight? Certainly if a young man of 18, 19, or 20 years of age is old enough to fight and die for his country, he is old enough to have a voice in the selection of those who govern the Nation and whose decisions affect his very life.

Mr. President, lowering the voting age to 18 will also tend to bring about more effective and responsible government in the future as it will provide a more equitable balance in the electorate. As the number of older voters increases due to longer life expectancy, a corresponding increase in the number of young voters will help provide a more balanced approach in the general political outlook of the men and women of our Nation.

In the midst of great ferment in our colleges and universities, we must reiterate our faith in our youth and in the ability of the great majority of them to cope with the problems which beset our society and affect the welfare of our Nation. I urge immediate enactment of legislation to lower the voting age in Federal elections to 18 years of age; or at the very least the approval of the proposed constitutional amendment to accomplish this.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CONSERVATION YEARBOOK SERIES OF THE DEPARTMENT OF THE INTERIOR

Mr. JACKSON. Mr. President, I invite attention to a vital service being performed for the American public by the Department of the Interior—one that, in addition, is more than paying its own way. I refer to Interior's conservation yearbook series of which this year's book is entitled "Man: An Endangered Species?" This publication is the fourth of Interior's annual efforts to arouse and engage the American people on behalf of their own environment. The message it contains is literally of life-and-death importance. It is compellingly presented, and it is a sales document. "Man: An Endangered Species?" is sold for $1.50 by the Superintendent of Documents, Washington, D.C. 20402. Sales of all four yearbooks have far exceeded the cost of their preparation and printing. The Seattle Times, in its lead editorial of Sunday, May 19, pays glowing tribute to the importance of this yearbook. I ask that the editorial comment be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PRODUCTION, SPEED AT ANY PRICE: BUT WE NEGLECT PEOPLE

This year's annual report by the United States Department of the Interior deserves much more than the cursory notice usually accorded such documents before they disappear into the obscurity of the federal archives.

The publication is the hardest-hitting report of its kind to appear since 1964, when a privately published book by Peter Blake—"God's Own Junkyard"—warned of the "planned deterioration of America's landscape."

In Blake's book, a cynical observer remarked that "the national purpose of this country from the beginning has been to let everyone make as much money as he possibly can. If they found oil under St. Patrick's Cathedral, they would put a derrick smack in the center of the nave and nobody would give the matter a second thought."

A similar theme is pursued in the new Interior Department report, but it goes even further, suggesting that the continued mindless ruination of the environment now has placed human beings themselves in danger of extinction.

Pleading for more intensive efforts to curb pollution, to preserve open spaces and to attack the "diminishing quality and creeping vulgarity and ugliness of the environment," the report calls upon Americans to control their "unbridled technology."

Interior Secretary Udall said there is an "insidious logic that implies that production, speed, novelty, progress at any price must come first and people second." Udall suggests that the race for superproductivity has made the "gross national product our Holy Grail." In so doing, we often ignore the "little things" that add joy to everyday living.

There ought to be, Udall observed, a "tranquillity index, a cleanliness index and a privacy index" as well as statistics on such things as steel production, automobile output and housing starts.

Conservation programs to date, the report continued, largely are "apologies to the past." While Americans earnestly support such limited enterprises as saving the whooping cranes, they fail to notice their own growing eligibility for the title, "endangered species."

It is a scathing indictment, very nearly every word of which happens to be true.

OUR TOO BIG FEDERAL GOVERNMENT—ADDRESS BY SENATOR HOLLAND

Mr. TALMADGE. Mr. President, last Friday, at Sea Island, Ga., the distinguished senior Senator from Florida [Mr. HOLLAND] delivered an address to the annual meeting of the Board of Directors of the Southern States Industrial Council.

Our able colleague and learned champion of sound government and fiscal responsibility discussed an issue vital to every citizen of the United States, and especially important to our State and local governments. Senator HOLLAND views with justifiable alarm the decline of State sovereignty and the trend toward an all-powerful, centralized state in which the creation of more and more socialistic programs have almost become the order of the day. In his most eloquent and forceful address, he issued a call—in which I wholeheartedly join—for the restoration of Federal-State relations as envisioned and intended by the Constitution, and for restoration of "the old-fashioned American idea that personal ambition and the willingness to work are virtues."

The concern expressed by Senator HOLLAND in discussing these and many other serious social and economic problems facing our country today is shared by millions of Americans—a majority of our citizens, I believe—including myself.

The Senator from Florida is to be commended for his splendid appraisal of these State and national problems. In my judgment, he has wisely pointed the direction for their solution. I ask unanimous consent that the text of his speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

OUR TOO BIG FEDERAL GOVERNMENT

(By U.S. Senator SPESSARD L. HOLLAND before the annual meeting of the board of directors, Southern States Industrial Council, Sea Island, Ga., May 31, 1968)

I am glad to be here today with my kind of folks—you directors and associates of the Southern States Industrial Council.

It is also a pleasure to be once again in the great State of Georgia where my father, Benjamin Franklin Holland, was born and fought and shed his blood in the defense of Atlanta; where he lived until he migrated to Florida in 1882. While I have a very warm spot in my heart for this state, received my academic degree at Old Emory College, and am now honored to be a Trustee Emeritus of Emory University after many years as an active Trustee, I must say that I am pleased that my father saw fit to relocate in Florida. For Florida, my native state, has treated me wonderfully well.

I could not visit Georgia without mentioning two of my beloved colleagues in the Senate—Senators Dick Russell and Herman Talmadge—with whom I see eye-to-eye on most of the important issues which come before us in the Senate. They possess a world of wisdom and practical knowledge so necessary to assist us in playing our part in shaping the destiny of our nation. They are a great credit to Georgia and are patriotic servants of our nation—they epitomize the motto of this Empire State: "Wisdom, Justice and Moderation."

I wish to talk to you today about a subject which I am certain is deep in the minds of all of us—that is, the constant erosion of our constitutional dual sovereignty form of government and the move towards an all-powerful, centralized, socialistic state. I am sure you know what a socialist is—he is an unsuccessful person who figures his last chance to get something for himself is to take part of what you have. My subject, therefore, is "Our Too Big Federal Government."

It would be trite these days to talk about the Vietnam War and our too-many foreign commitments, along with our heavy load in giving aid to many less fortunate, undeveloped nations. But I mention these subjects in passing, because they create a sizable part of the overload which makes our federal government and our federal budget too big. It would be trite, also, to mention the huge burden of domestic welfare programs, many of them socialistic, which our federal government has assumed, the mass of ill-considered civil rights legislation with all of its enforcement provisions and personnel, relating to schools, so-called fair employment controls, anti-discrimination voting controls, and many other features. It might be of interest to discuss the new fields of necessary federal activities such as aviation, space, atomic energy, radio, television, oceanographic exploration, and others. But I simply mention all of these as a background for stating that our federal government has grown so big that it has become grossly extravagant.

As a long-time member of the Appropriations Committee of the Senate, I long ago realized that it is simply impossible for any human mind in the legislative branch to grasp all the implications of our swollen governmental machinery and to appropriate for it with that careful prudence and economy which we earnestly desire. And it is equally impossible for a human mind in the executive department, whether the President or any of the top officials of our huge agencies, to plan well and spend efficiently and economically the astronomical sums which they handle.

These difficulties exist and they will have to be faced and overcome separately and, I fear, over a long period of time. I hope and trust that American ingenuity will find many ways to accomplish savings and I shall expect many of these programs to be reduced and simplified and some of them to be eliminated.

In my remarks today, however, I shall discuss some of those many activities now pending which are being promoted by ultra-liberals and which would add further to the federal burdens and make more impossible the job of carefully reorganizing the massive national overload and bringing it back to sane proportions. Such a group as yourselves can do much in combatting these pending efforts and these new trends to further complicate our government and further pile up unbearable loads on the already over-burdened federal structure.

Among these ultra-liberal efforts which I hope you will oppose vigorously are several which are pushed by power-hungry leaders of the labor movement and which, if accomplished, would add greatly to the difficulties of industry and do violence to the public interest. I am sure you all remember the active efforts which have been made several times in recent years to repeal Section 14(b) of the Taft-Hartley Act which is the section permitting any state to adopt for itself, the so-called "right-to-work" provision. Some 19 states have acted to adopt this provision and still have it in force. Twice in the last three years such a drive has been stopped in the Senate by our defeating the efforts to impose cloture. But that does not mean that the subject is dead and we hear constant talk of the renewal of the effort to repeal Section 14(b). We will surely face such an attempt again in the near future and in the meantime there is a flank movement under way, related directly to federal employees, which I call to your attention and which is nothing more nor less than a "foot-in-the-door" approach to another try at repealing Section 14(b).

In 1962 President Kennedy issued an Executive Order permitting federal employees to join or refuse to join a union. A Labor Management Review Commission, appointed by President Johnson, has recently recommended changes in that Executive Order requiring federal employees to join a union and to pay union dues and assessments. Recognizing this effort for what it is, Senator Bennett of Utah has recently introduced S. 3483, of which legislation I am a co-sponsor, to protect the freedom of choice of federal employees to join a union or to refuse to join and in the case they decide not to join, to protect them against the payment of union dues or assessments. I think it is unnecessary to point out that if federal employees are denied the right-to-work provision or the freedom of choice now guaranteed to them by the 1962 Order of President Kennedy this would be a logical approach to the repeal of Section 14(b) so that other employees generally could be deprived of the benefit of the right-to-work laws of the several states. I hope that your organization will be quite alert on this matter and will strongly support the bill of Senator Bennett to assure complete freedom of choice to federal employees as to whether they shall join an employees union or refuse to do so.

Another measure now pending called the

"Equal Employment Opportunities Enforcement Act", proposes to amend the Civil Rights Act of 1964 so as to give the Equal Employment Opportunity Commission the right to issue cease and desist orders. This legislation was favorably reported by the Labor Subcommittee to the full Senate Committee on Labor and Public Welfare which has reported it to the Senate as S. 3465. I do not think I need tell you how arbitrary a handling of this important question may be expected if the very Commission which is investigating employment practices in the effort to prevent discrimination in employment were given the power to issue cease and desist orders just as a United States Court, after adequate proof in which the complained-against party would have every right to be heard, were taking the action. I am sure you already know that the United States Chamber of Commerce and other groups which are interested in assuring employers fair treatment are strongly opposing this proposed legislation and I hope you will join in opposing it.

Yet another measure now pending before the Senate Committee on Labor and Public Welfare, Senate Bill No. 8, proposes to place all agricultural employees under the National Labor Relations Board. This is a measure which has the strong opposition of all agricultural groups, particularly those which are producing perishable fruit and vegetable crops. I am sure that you can realize the disaster that would threaten many agricultural producing industries if agricultural labor had the right not only to organize in unions, but to have all of the advantages of resorting to NLRB. I shall not belabor this question, but to my mind, there could be nothing more unfair to agriculture, which has already had its labor placed under the provisions of the Wage and Hour Act, and which must operate under the constant uncertainties of weather and changing market conditions, than to now provide that it would have to be prepared at all times to meet hazards of strikes and the complaints of every sort filed with the NLRB and to comply with the dictation of NLRB. I hope that you will throw the weight of your organization very strongly against the adoption of this proposed, hurtful, legislation.

Aside from the field of labor legislation, yet another proposal now pending in the Congress is that to guarantee an annual income to all citizens. The recently-functioning Labor Advisory Committee on Civil Disorders included, among its recommendations, the setting up of a national system of guaranteed income. Immediately after the filing of the report of that Committee, a bill was presented, known as H.R. 17331, now pending in a House Committee, which would provide a comprehensive maintenance income system for all Americans. As an example, taken from the supporting statement of the author of that bill on the Floor of the House of Representatives, a family of four with no outside income would be guaranteed $2004 per year. A family of four with outside income of $1000 per year would receive $1500 in benefits, or a total of $2500. A family of four with outside income of $2000 would receive $1000 in benefits, or a total of $3000. And a family of four with outside income of $3000 per year would receive $500 in benefits, or a total of $3500. If such a family has an annual income of $4000 it would receive no government supplement. The bill does not explain the logic of its approach to guaranteed income of different amounts to different families of four, but it does make it very clear that it feels that the government's duty is to guarantee what is called a minimum income to every American individual and to every American family. I do not know what has happened to the old fashioned American idea that personal ambition and the willingness to work are virtues. I hardly think I need say to you that I strongly hope you will oppose all legislation of this type. I fear we will see many more bills of this nature introduced in the two Houses of Congress.

Still another domestic problem which is already bad, but promises to be worse, stems from the unfortunate one-man one-vote decision of the United States Supreme Court. By this decision the Supreme Court read into the 14th Amendment of the Constitution, which was adopted under questionable circumstances 100 years ago, a meaning that was not attributed to it in the Congressional debates at the time and which would have completely prevented its adoption if such a meaning had been understood. Following this one-man one-vote decision, the courts have greatly disturbed the distribution of members of both the House and Senate of many state legislatures by reapportioning them approximately on a population basis. This ignores the fact that counties were formed long years ago with distinct interests and with their governing bodies elected on a county basis. Under these new reapportionments, county lines have been disregarded, common interests of counties and regions have been ignored and every rule of convenience has been cast to the winds.

My favorite horrible example of what these new legislative reapportionments have done is to point to the fact that the federal courts, in reapportioning the Florida Senate, saw fit to bracket Monroe County, of which Key West is the county seat, with Broward County, of which Fort Lauderdale is the county seat, and Collier County, a sparsely settled West Coast County, as a Senatorial District with four Senators. There is practically no similarity of interest among the three counties, and the county seats of Monroe and Broward are 190 miles apart with no highway access from one to the other except through the populous county of Dade, meaning metropolitan Miami. The population of Broward is so much greater than that of Monroe and Collier that all four members of the State Senate elected to represent this new, misshapen district, have come from Broward County and none from Monroe or Collier. Other instances in our state and in many other states illustrate the ridiculous results which have been perpetrated under the application of the one-man one-vote rule.

A sizeable majority of the United States Senate has sought to correct this situation by referring to the states a constitutional amendment known as the Dirksen amendment under which each state must base the apportionment of one of its legislative houses strictly upon population, but may, if it so decides, base the other upon any other principles which it prefers. We have not been able to get a two-thirds vote in the Senate to submit this proposed constitutional amendment, but the effort will continue, and meantime, evidences of dissatisfaction with the application of the one-man one-vote rule have multiplied from one end of the nation to the other. In many places in following this strictly nosecounting basis multi-county, multi-member districts have been set up with one large county bracketed with several small ones. The result has deprived numerous small counties of any direct representation in both Houses of the legislature. I am sure that the effort to correct this great mistake will continue and I hope you will actively help to correct it.

Still another field in which the ultra-liberals are trying to reduce the constitutional power of the states by taking away their control of the election machinery and the qualification of their voters, is presented by the drive to control the election of the President and Vice President by popular vote throughout the nation. Of course, the Electoral College, as set up under the Constitution, has substantial defects which can and should be cured, but I feel strongly that at least its basic provision must be preserved, which gives to each state a weight in Presidential elections based not only upon its population, as reflected by the number of its representatives in the House, but also upon its statehood, as reflected in its two members in the Senate. This was an important compromise between the small states and the large ones in the original Constitutional Convention and it still constitutes an important provision which must be safeguarded if our dual sovereignty system of government is to survive. The general public must be made to realize that the direct election of the President would downgrade the weight of over 30 states. It would diminish the power and thus harmfully affect all states which have populations below the national average. Further it would place 8 states in the unenviable position of having less weight in Presidential elections than the District of Columbia since each of these 8 states has a population less than that of the District of Columbia.

I cannot conceive of any of the smaller states approving the proposed amendment for the direct election of the President, and yet the ultra-liberals continue to press towards that end. Even now, they are proposing a uniform 18 year limit for voters in all states which is nothing more nor less than a large step towards what they really want, which is, the direct election of the President.

I was impressed by an editorial on this subject a few days ago in the Washington Post which is the town crier in Washington for all ultra-liberal movements. I think it is worthwhile to quote from that editorial briefly so that there may be no doubt in your minds as to where the ultra-liberals are trying to take us. After discussing with approval the 18 year old voting age amendment, the Washington Post says, and I quote:

"But age is only one of the voter qualifications that ought to be uniform throughout the country. The most useful amendment in this area would be one specifying fully who could vote in federal elections or authorizing Congress to do so. Such an amendment might also provide for federal supervision of Congressional and Presidential elections . . . Federal qualifications and federal supervision will be the more important if the country should approve direct election of the President as we surmise it soon will . . . Perhaps the safest course would be to let Congress fix the voting age and other voter qualifications."

The sad fact is that many of our ultra-liberals are obsessed with the idea that all wisdom and all virtue is vested in a huge, centralized, national government and that the sooner the states are made subject to such a government, the better it will be for the nation. I disagree so completely with this philosophy that I am asking you to form ranks with the other conservatives of the nation, regardless of party and regardless of region, as an unbeatable phalanx to prevent the success of this movement which, if successful, would emasculate our dual sovereignty system of government and make of our country a completely different and a much weaker nation.

May I next call your attention to a field in which I think it is necessary for conservative patriots of both parties to take a stand to prevent our nation from being weakened by hurtful strikes or work stoppages in industries that are vital to our national welfare.

We have a cooling-off period which is provided in the Taft-Hartley law and which has been helpful to the nation in many cases, but it does not give the complete assurance that vital industries will continue. Furthermore, there are some necessary industries which are not affected by that law but are controlled by even weaker provisions of the Railway Labor Act such as the railroads and the airlines. In my judgment, we must have stronger legislation which will protect both the economy of our nation and our national security against shut-downs in the vital industries which, by their stoppage, would soon bring complete national collapse. That it is possible to correct this situation was

clearly shown during our railway labor crisis in 1967 when in a third attempt Congress, by legislation, forced the railroads and the recalcitrant railway unions to settle their differences. We finally placed in our third act on this question a provision tantamount to compulsory arbitration. You will recall that Congress did this only after many of the railroads had ceased to operate and we did it only on an ad hoc basis applicable to that particular situation. But it forced a settlement and the trains began to run again.

In my judgment it is now necessary that we pass permanent legislation covering all of the vital industries and guaranteeing the nation against any stoppage of any vital industry. We cannot pass strong general legislation on this subject without the vigorous support of citizens, generally, from all parts of the nation who realize that not only our national economy, but even our national security may be threatened almost over-night if we longer refuse to pass strict legislation on this subject. I hope you will give your unlimited support to the passage of such strong general legislation.

There are many other troublous matters which I could discuss, but I shall simply mention them: The Vietnam War—Our too-far extended foreign commitments—Our balance of payments problems—Our deep fiscal difficulties—The problems of our poor—The riots in the cities. These problems are known to each of you. I think most of them are in the process of being solved and that the solutions will continue towards greater perfection. I hear much these days about the need to give greater federal aid in solving the problems of the poor, including education, training, health and welfare payments. The Congress has been moving in the direction of a solution to these problems for several years and I feel sure that they will be solved in the course of time. For instance, relative to federal aid to the poor, our total action in that field has jumped from a cost of $9.5 billion in 1960 to $12.5 billion in 1963; to $21.1 billion in 1967; to $24.6 billion in 1968; and for the fiscal year ahead, 1969, the estimated amount will be $27.7 billion. These programs have increased almost 300% in the short space of eight years. These programs should be perfected and made more efficient now rather than enlarged and that is what Congress is trying to do.

It would be useless here to go further in mentioning the heavy problems which confront us and which call for the activity and support of good citizens in every region in order that they may be solved. I want to end my statement on a more optimistic note. I hope that our whole nation is recovering from its lethargy, awakening from its binge and steadying itself for a sounder and more stable future. Whether that proves to be true will be shown in the elections of this fall and in the performance of this and the next Congress.

At this time I merely want to say that in my judgment most of the rest of the nation is beginning to realize, and much of it has already realized, that the greatest bastion of strength in our nation is the conservatism and stability of the South. I hear this theme discussed every day by Senators from other parts of the country. I think the nation, generally, realizes that the prosperity of the entire South from Virginia to Texas is resulting from the more conservative philosophy that dominates this whole area. Taxes, generally, are more reasonable than elsewhere; the growth of business is more pronounced and more stable; the attitude of the working force is more reasonable; and the demands of the minorities are, generally speaking, more nearly in accord with the public good. In the matter of racial controversy it has become very clear that those conflicts have been largely transferred to the great cities of the north and west and that relative peace prevails throughout the Southland. In the matter of labor-industry relations it is equally clear that most of the Southern labor force will not follow radical and unreasonable leadership. In the matter of continuing the membership in Congress of our Senators and Representatives until their experience and seniority enable them to better serve their states and also the whole nation, there is a real contrast between our Southern practice and that which seems to prevail in most other parts of the nation. For the most part, the South is following the point of view of grand old Sam Rayburn who always said the sound rule to follow was "pick 'em young, pick 'em honest and keep 'em there."

The longer I serve in the Congress, the prouder I am of the South and its stability and the more jealous I am of its reputation for insisting on stable government at home on doing its best to accomplish stable government at the federal level. It is not necessary for me to tell you about the great advantages possessed by our region—the fertile lands—the abundant waters—the attractive and varied weather patterns—the sweeping forests and the wide variety of crops—the reliability of our work force—the proven attractiveness of investment from elsewhere both in money and in living manpower—the enormous oil and mineral wealth which we are producing—our tremendous participation in maritime and other commerce—our closeness to Latin America—and the great human and natural resources existing here. All these assets and many others in my judgment will continue to make the Southland an ever more important portion of our nation clothed with ever greater potentiality and obligation to serve the nation as a whole. I am sure that each of you is animated with intense pride in our region and complete understanding of our increasing responsibility to the nation as a whole.

In my judgment, there has never been a time when we have been challenged to so great a task in endeavoring to move forward soundly in solving the national problems which loom so large and of which today I have mentioned only a portion.

In closing my remarks here and expressing my appreciation to you for inviting me to come and visit with you, may I say that I keenly feel that the whole South has both a challenge and a potentiality to serve the nation which is greater than that being offered now to any other portion of our great nation. It is my hope and prayer that we may supremely live up to that challenge and to that great opportunity.

THE LAW DAY PROJECT: LESSON IN DEMOCRACY

Mr. DOMINICK. Mr. President, on May 1, 1968, ninth grade "citizens" of Hill Junior High School, in Denver, Colo., lived under the People's Democratic Republic of Tirainia. The program, in observance of Law Day, was designed to let the students experience regimented life under a dictatorship and was the first of its kind in the United States.

The day highlighted the prevailing philosophy in totalitarian countries that "the state is supreme." Political discussions except in "glorification of the state" were banned; in addition, religious discussions, creative writing, art, and music not previously approved by the authorities were also prohibited for the day. Freedom of assembly was also denied.

An election slate of government officers was offered to the students, but only the names of government selected persons were included on the ballot. Flags and armbands bearing the national insignia of Tirainia were required and a militaristic atmosphere prevailed in the classrooms. Arrests were made for failure to mark ballots in the rigged election, criticism of the state, religious discussion, and for failure to possess identification cards.

Three trials were held before a "Three Judge People's Court" and were based on legal principles generally prevailing in totalitarian countries.

The day ended with a stirring Law Day speech delivered by District Judge Sherman G. Finesilver of Denver. His remarks pointed out the duties and privileges of U.S. citizenship and pinpointed the differences between law in the United States with its constitutional guaranties and legal proceedings under totalitarian regimes.

Judge Finesilver, State chairman of the Bar Association Committee, was the principal organizer of the Law Day program. The project was sponsored by the American Citizenship Committee of the Colorado Bar Association in cooperation with the faculty and students of Hill Junior High School.

Mr. President, I ask unanimous consent that Judge Finesilver's speech be printed in the RECORD at this point in my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TO VIOLATE THE LAW IS TO TRAMPLE ON THE BLOOD OF OUR FATHER

(Speech by Judge Sherman Finesilver)

Today we have lived under an atmosphere where the State is supreme, and the rights of the people are meaningless. Our every action was dictated by the State.

We enjoyed no freedom of expression . . . no freedom to create or write . . . we were prevented from peaceful assembly or even discussing politics or government . . . even our reading material was restricted. Yes, we were regimented in every phase of living . . . the air we breathed was not free. We even observed the overthrow of our elected officials without the voice of the majority being heard, and without the guaranty of free elections.

We observed three trials for "vicious crimes against the State," and we saw how insignificant liberty and freedom are under a totalitarian State.

We saw that there was no public trial . . . there was no jury trial . . . the right of the accused to be faced by his accuser was prohibited.

The judges were biased and prejudiced in favor of the State and they merely promoted the attitudes and beliefs that the State encouraged . . . they operated at the whim of the State.

Of greatest importance is the fact that the accused was presumed to be guilty and he had to prove his innocence.

We can't really say that the accused in the three trials were given any semblance of a fair and just trial or that due process of law prevailed.

In contrast in the United States we are clothed with the strongest beacon of justice—the presumption of innocence unless guilt is proven beyond a reasonable doubt and through legal and just means. As Americans we have the priceless protections afforded by the Bill of Rights—the first ten Amendments to the Constitution. As Americans we know that the roots of American law are set forth in the Constitution of the United States and the Bill of Rights—documents unparalleled in the world. This means

that every American citizen is protected by law.

The individual liberties guaranteed us by law under the Constitution distinguish our free society from all other systems of law, particularly those practiced by the totalitarian nations.

One must remember that our rights under the law include:

1—The right to be free from arbitrary search or arrest; 2—The right to seek educational and economic opportunity; 3—The right to choose public officers in free elections; 4—The right to own property; 5—The right of free speech, press and assembly; 6—The right to attend the church of your choice, 7—The right to have legal counsel of your choice and a prompt trial if accused of a crime, and 8—The right to be represented by competent counsel in the event of indigency.

Under our system it is the function of the judge to see that the rights of the individual on trial are protected and to guaranty him a fair trial in every manner. The judge is wholly independent of other branches of government—legislative and executive—and is responsible only to a higher court for his decision.

Our system emphasizes individual rights, and refuses to convict a man upon improper evidence.

This day—Law Day, 1968, is one where we reflect on our respect for law and duties owed to our country, and should be a day of deep reflection on our precious freedoms.

The underlying purpose of this day is to strengthen a nation dedicated to liberty and justice—a nation in which its citizens may live an abundant life, developing to the fullest their indivdual opportunities for success and rendering a corresponding service to their country.

American citizenship is a precious privilege in this troubled world—it is sought my many, rendered to few, and treasured by people in the far reaches of the earth.

We do not have to be military leaders to show courage . . . every day we have the opportunity as ordinary Americans to perform in extraordinary ways to the best advantage of our country . . . we have the opportunity daily to show our love to our country through loyalty and respect . . . the nation cannot survive without great numbers of good dedicated Americans.

However, along with the rights we enjoy as free citizens of our great Republic, there are certain responsibilities we have as a consequence.

Perhaps it is necessary to point out some of these today on the 10th anniversary of Law Day. These are:

1—The duty to obey the laws; 2—The duty to inform yourself on issues of government and community welfare; 3—The duty to vote in election; 4—The duty to serve on juries if called; 5—The duty to serve and defend your country; 6—The duty to assist agencies of law enforcement, and 7—The duty to practice and teach the principles of good citizenship in your home, in school and in the community.

In Indianapolis only last week, I read a plaque erected to President Abraham Lincoln, who in Indiana on February 11, 1861, made this statement on his way to assume the presidency of the United States:

"I appeal to you to constantly bear in mind that not with politicians—not with office seekers, but with you is the question, 'Shall the Union and shall the liberty of this country be preserved to the latest generation?'"

He later said:

"There is even now something of an ill omen among us. I mean the increasing disregard for law which pervades the country, the gross disposition to substitute wild and furious passions in lieu of the sober judgment of courts. As the patriots of '76 did to support the Declaration of Independence, so to the support of the Constitution and laws let every American pledge his life, property, and honor; let every American remember that to violate the law is to trample on the blood of his father and to tear down the charter of his own and his children's liberty."

Let us heed the words of President Lincoln and pledge that we will not "trample on the blood of our father and tear down the charter of our children's liberty." Let us today pledge that we will never bring disgrace to our country by any act of dishonesty, disloyalty, or violence. We will fight for the ideals and sacred things of our country. We will revere and obey our laws and do our best to encourage others to respect and revere these laws. We will strive to make our country greater, more useful, more abundant than it was transmitted to us, and we will add our efforts to the American dream by being loyal, honorable and responsible and in no way detract from the high heritage we are privileged to enjoy."

Mr. DOMINICK. Mr. President, I can think of no more dramatic method to give our young people an idea of what democracy is all about than to demonstrate what the absence of freedom really means. This unique experience gave the students of Hill Junior High School an unforgettable taste of totalitarianism and I believe this project could serve as a model for similar programs throughout the country. I commend Judge Sherman Finesilver and the members of the Colorado Bar Association for their efforts in helping to develop greater citizenship, leadership, and motivation in our young people.

CONNECTICUT SALUTE TO ARMED FORCES IN VIETNAM

Mr. DODD. Mr. President, I invite the attention of Senators to a proclamation issued by Gov. John Dempsey, of Connecticut, setting aside Sunday, July 7, 1968, as a day of prayer for our Armed Forces in Vietnam and for peace throughout the world.

The Governor's proclamation has been given the support of patriotic organizations and citizens throughout the State.

I believe this is an observance in which all patriotic Americans can properly join.

I ask unanimous consent that the text of Governor Dempsey's declaration be printed in the RECORD.

There being no objection, the declaration was ordered to be printed in the RECORD, as follows:

SALUTE TO ARMED FORCES IN VIETNAM,
JULY 7, 1968

(By His Excellency John Dempsey, Governor, State of Connecticut)

Today in Viet Nam thousands of men in the armed forces of the United States are striving to oppose the spread of the forces of Communism.

It is important that these men, who are far from home and exposed constantly to the hazards of war, know that we are mindful of the great sacrifices they are making in our behalf.

In Stratford and other Connecticut communities many of our fellow-citizens are participating in an organized effort to offer prayers for our armed forces in Viet Nam and for peace throughout the world.

The day designated for a Salute to Armed Forces in Viet Nam is Sunday, July 7, 1968.

This is an observance which serves to bring deserved recognition to our fighting men in Viet Nam. I am pleased to join in the Salute and to call it to the attention of the people of Connecticut.

JOHN DEMPSEY,
Governor.

HORATIO ALGER VISITS ALASKA

Mr. BARTLETT. Mr. President, not only is Alaska separated physically from the rest of the continental United States but there also is an isolation in the minds of our citizens. Almost 10 years after Alaska was admitted to statehood, there are still people who conceive of it as a foreign country. Perhaps more than any other State, it is thought of in stereotypes. It is that vast arctic wilderness covered with ice the year round. Or it is the place which hardly sees daylight during the winter. It is cold beyond human endurance. It is the home of the Alaska King Crab, perhaps more well known than the State from which it derives its name.

Indeed, Alaska is all of these things. As with most stereotypes, however, those about Alaska are only partly true. Few people know, for example, that Alaska is one of the fastest growing and most promising of our 50 States. Not many more people knew that Alaska enjoys spring, summer, and fall days comparable in magnificence to those found anywhere else in the United States. The breathtaking beauty of the State has yet to be discovered by those millions of tourists who travel the length and breadth of these United States but who somehow have not yet made it to Alaska.

Alaska is a State of grandeur and wonders. Alaska means miracles to those who know it and love it. Alaska is America's new frontier, promising almost beyond imagination, beckoning the creative free spirit. It also beckons those interested in investing in the future of the State. And in increasing numbers, both are arriving in the State. No one has been disappointed yet. Alaska has been paying off with huge dividends to all of those who have been daring enough to stake their claims there.

An article published in the June 10 issue of U.S. News & World Report tells something of the miracle which has been occurring in Alaska since statehood in 1959. It is a success story unsurpassed. I commend it to Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOW ALASKA STARTS TO "OPEN UP" ON ITS OWN

Times are changing in the 49th State. Everything is hustle and bustle as investment funds for development pour in. New industries are emerging. More people are settling on a new frontier. Japan is helping in the build-up. Cost of living is high, but so are wages.

Alaska, after 100 years of near neglect, suddenly is offering brighter prospects to Americans looking for a frontier with a future.

Once regarded mainly as a defense outpost and source of a few products such as gold and seafood, the 49th State now is moving ahead on a broad economic front. The payoff from a big increase in investment, principally in oil, fisheries and timber, is beginning.

A 10-year telescope. The potential for a lengthening list of resources needed by the

U.S., especially minerals, is increasingly evident. And Alaska no longer is waiting for help from Washington. It is going ahead on its own.

"We are 70 years behind the Russians in opening up Arctica," says Governor Walter Hickel. "We intend to telescope time and open our Arctic within the next 10 years."

Some new developments:

A "winter trail" is being pushed from the railhead of the Alaska Railroad at Fairbanks across the Yukon River, into the rich oil and gas areas to the north and mineral areas to the west. It is planned as a future railroad route.

The trail, a rough route over frozen terrain, will open to tracked vehicles in winter a huge area previously accessible only by air. It will be impassable in the warm months because the tundra over which it is to be laid is too soft then.

In southeast Alaska, winter service on a State-owned ferry system has been extended to Puget Sound to connect the State to the "lower 48," as Alaskans call the other continental States. This is Alaska's "marine highway," built and extended at a cost of 38.5 million dollars.

A modern ferry fleet of four ships is expected to speed migration to Alaska, encourage tourism and lower transportation costs. Alaska now has a population estimated at 275,000.

Two cents an acre. The U.S. paid a little less than 2 cents an acre for Alaska's 375 million acres when it bought the huge area for 7.2 million dollars in 1867.

Since then, it has cost billions to make a small part of that land usable, and it will cost billions more to develop its huge resources. Nobody knows what Alaska is worth, but those who are committing their lives and money are convinced it is worth whatever it costs. Among the investments are these:

The U.S. has spent billions to make Alaska, so close to Russia, a defense bastion. Still more is to be spent in the future.

More than 1 billion has been spent so far by the oil and gas industry for exploration, development and production. This year, 18 oil companies are starting an $800,000 survey in the Gulf of Alaska, the first step in bidding for offshore oil and gas leases when these are offered. Other projects are under way.

More than 220 millions has been spent or committed by Japan, including 75 millions for a share in ammonium-fertilizer and liquid-gas plants, and 41 millions toward oil and gas exploration and development.

More than 350 millions in federal funds provided for reconstruction in Alaska following the Good Friday, 1964, earthquake. This money, plus other funds, served as the catalyst that brought a new surge of growth to Alaska.

The last frontier. "The thing that makes Alaska go is that the people who come here want to be here; they like it," says a close observer of the State. For most of them who stay, "Alaska is the land that dreams are made of." For others, who don't stay, "It is pure hell."

Wayne Ostendorf, manager of the Northern Commercial Companys Anchorage outlet, largest in its chain of 32 stores in Alaska, says:

"More young people are coming because Alaska is the land of opportunity. It has the challenges that other States don't offer any more. Those who have the pioneer spirit and want a different, not soft, way of life find that about the only place left to develop in the U.S. is Alaska."

Donald Schmiege, a research biologist for the National Forest Service in Juneau, sold his home, boat and beach property there in 1966, then taught for a year at the University of Wisconsin. He recalls:

"Last summer, looking for a new place to live, we decided to investigate a job offer in Washington, D.C. We didn't get halfway across the country before my wife was ready to come back to Alaska. Then, the children decided that they were, too."

Now, the Schmieges have bought a lot at the edge of the national forest near Juneau for $6,500 and have built a new home.

"It's the people, scenery, no pollution or traffic, the chance to do things together as a family," Mr. Schmiege says.

Mrs. Allan Neidhold, of Fairbanks, observes:

"There's a period in winter when you ask yourself? What am I doing here? Your husband is out trying to start the car. The children have frostbitten hands. But then come spring and summer and lightness, and the autumn is gorgeous and you know why you are here."

Changing way of life. An expanding, year-round job base is inducing more people to work and live in Alaska. There's a gradual shift away from the sharp, seasonal swings in employment that leave the State with 8 to 12 per cent unemployment. In some inland communities, winter joblessness has been 40 to 60 per cent.

In the city of Kenai, construction of an 8.5-million-dollar shopping center went on during the winter of 1967–68. So did building of a hospital, a motel expansion and a recreation center. Two years ago, the city didn't issue any building permits in winter.

The accelerating boom in oil and gas is providing more year-round jobs and taxes. The average of 1,163 jobs in the industry in 1965 has increased to more than 2,000 now. Eleven drilling platforms are operating in Cook Inlet, near Anchorage. Two more will start next year and eventually 40 will be working "before Cook Inlet is drilled out," says a petroleum engineer.

State royalties from oil production more than tripled in 1967. Production from 78 wells neared 170,000 barrels a day at the start of 1968, for a $41,000-a-day State royalty.

Alaska now leads the U.S. in per-well output in oil and gas. Some industry leaders predict that it will be the third-largest oil and gas-producing State by 1980. Also, Alaska's oil is highly marketable because it contains less than one quarter of 1 per cent of sulphur—compared with 2 per cent for most crudes—an important consideration in a pollution-conscious society.

To the north. Arctic Alaska may one day provide additional oil and gas. The U.S. Navy has spent 45 million dollars drilling 75 wells in the Umiat area, 200 miles southeast of Barrow, where it is estimated there are 100 million barrels of oil reserves and some gas.

Private companies also are exploring the area during the seven months of winter freeze, working from a caterpillar train complete with living quarters, supplies and shops.

Big production per well continues with new discoveries, including one of 7,600 barrels a day in March. Another company completed in December what is Alaska's largest single producing well, with an output of 10,000 barrels a day.

Aside from the weather, high labor costs in Alaska mean that any discovery has to be much bigger than any in the "lower 48" to be profitable.

Extension of the Alaska Railroad to the north is being pressed by Governor Hickel to open up "the largest area in the world without ground transportation." It would run from Dunbar, near Fairbanks, to the oil-and-gas areas in the north and the Kobuk area, known to be rich in copper and other minerals. In the extreme northwest, some 82 billion tons of coal wait to be claimed in the Kukpowruk River basin. Cost of the rail extension would be an estimated 150 million dollars.

The State is spending $750,000 for its NORTH Commission [Northern Operations of Rail Transportation and Highways], authorized by the legislature last year, for initial land surveys now under way and aerial surveys to be completed by mid-1968.

The hope is that the Federal Government will lend the money for construction; perhaps even make land grants such as those given to railroads a century ago.

Fish and timber. Fisheries also are becoming the basis for more year-round jobs. Kodiak, rebuilt since near-total destruction by the 1964 earthquake, is enjoying new prosperity. One estimate is that, with modern methods and facilities, Alaska could pack 5 to 6 million cases of salmon a year, 200 million pounds of king crab, 500 million pounds of shrimp and 2 billion pounds of perch and cod.

About 32 per cent of Alaska's labor force of 92,000 people now find work in the fishing industry.

Alaska's timber industry is being developed, with much of its exports going to Japan. Billions of board feet of timber are available for cutting in the Tongass National Forest in the southeast.

The Statehood Act gave Alaska the right to choose 104 million acres over 25 years to help develop its economy. To date, 18 million acres have been selected and secure land title acquired for 7 million acres. It is these lands that the State offers for sale or lease for specified uses: resource exploration and development, homes, business, agriculture or recreation. There is a limit of 640 acres for sale to one individual.

Land prices vary widely, from $100 an acre for scrub property near Anchorage to $8,000 an acre for land sold by the city of Kenai for approved purposes. Farmland in the Matanuska Valley goes for $375 an acre and up.

The aborigines. Native claims of "aboriginal possession" of 290 million of Alaska's 375 million acres led Secretary of Interior Stuart Udall to put a freeze—with a few exceptions—on disposal of federal lands in December, 1966. The natives are asking full title for the lands they claim and compensation for lands taken from the claimed areas.

Alaska's natives, like the State itself, are in transition from a primitive to a modern society. The 55,000 Eskimos, Indians and Aleuts make up 20 per cent of Alaska's 275,000 people. Many live in abject poverty. Training programs now are being instituted to help the natives get jobs and draw them into the cash economy. Some firms which have hired Eskimo and Indian workers say that they are more than satisfied with the results.

The tax problem. High taxes are a major burden in Alaska, complains John Dugan, a real estate developer in Juneau:

"One of the big things stifling Alaska is the borough system. It means three levels that can bond—city, borough and State."

Before the borough outside Juneau's city limits was organized, Mr. Dugan paid $355 in taxes on his home. Now the bill is $565.

In addition, he says:

"We pay a 4 percent sales tax on everything—groceries, rent and services, but not on doctor or hospital bills. People with the most kids have to pay the most tax."

Because of Alaska's huge size, its small population, small work force and small tax base, the State has the lowest bond rating of the 50 States.

Small-size agriculture adds to local problems. Alaska grows less than 8 per cent of the food it consumes. Farm products are mainly milk and meat.

At most, some 2 million acres are suitable for agriculture; only 40 per cent of that is tillable, with the rest usable only for pasture. Main farming areas are the Matanuska Valley north of Anchorage, the Tanana Valley and the Kenai Peninsula.

With up to 20 hours of daylight in summer, vegetables grow to record size, such as a 62½-pound cabbage grown in the Matanuska

Valley. But the growing season is short—about 100 frost-free days.

Hamburgers, $1.65. The high cost of living is a handicap to Alaskan development. A market basket of 40 basic foods last September cost $16.81 in Seattle and $29.73 in Nome.

In Anchorage, haircuts are $3.50 and a shoeshine is $1. A hamburger sandwich at a hotel coffee shop in Juneau is $1.65.

In Kenai, "It costs $24 a square foot to build," says John Morris, a Western Airlines station agent. Biologist Schmiege, in Juneau, says: "I had $20,000 invested in my new house before I even bought any lumber."

Autos are an expensive necessity. Although regular gasoline is 51.9 cents a gallon in Kenai and $1 in Nome, engines are left running while their drivers are shopping or visiting in winter so that they won't freeze up. Tires freeze flat at 40 degrees below zero.

High utility rates and long, cold winters make for staggering bills—more than $100 a month for a typical Fairbanks family.

The price spread between Alaska and the "lower 48" is getting less as transportation improves and competition grows.

The gap used to be 30 per cent; now it is down to about 20 per cent and still dropping.

High incomes offset high prices for some Alaskans. Auto dealer Robert Kron in Anchorage says a good salesman can make $20,000 a year or more.

In the same city, Dr. Asa Martin says that a doctor can earn $30,000 to $40,000 a year. City Manager William Harrison in Kenai—with 30,000 population—is paid $19,600 and is getting a $2,000 raise.

The basic rate for construction labor is $5.47 an hour, plus 80 cents in "fringes." Welders and pipefitters get $7.10. Most construction men work up to 10 hours a day, six days a week, so overtime pay mounts up.

At a chemical complex being built near Kenai, construction workers can make more than $18,000 a year.

Despite the problems, most Alaskans see great hope for the future. Says Dr. William Wood, president of the University of Alaska:

"This is an exhilarating place to live. The spirit of the people has been fantastic. The element of complaint just doesn't exist.

"To us, it would be a horrible existence if life were just one soft pad—if you didn't have something that excites you to do, to reach for."

COMMUNIST POLAND'S TRADE STATUS WITH THE UNITED STATES

Mr. BYRD of Virginia. Mr. President, for the last 8 years, the Communist government of Poland has enjoyed most-favored-nation trade status with this country, giving it special privileges and benefits not available to many other countries. This trade advantage was given to Poland in 1960 in the hope that it would be an incentive for Poland to assert greater independence from the Soviet Union.

There is no question that Poland has benefited handsomely from these trade concessions. In 1959, the year before most-favored-nation treatment was extended to it, Poland's exports to the United States were about $31 million, and her imports from us were nearly $75 million. That amounted to a trade deficit of $43 million for Poland.

By 1967, however, Poland's exports to the United States had almost tripled to $91 million, while its imports from us declined to $61 million. Thus, the trade deficit of 8 years ago has been converted to a substantial surplus of $30 million for Poland. Needless to say, this Polish trade surplus has been at the expense of the U.S. balance-of-payments position.

Mr. President, I would have no objection to continuing this trade arrangement with Poland were there any evidence that it was having the desired effect of making Poland more independent of the Soviet Union, and of halting its shipment of military supplies to North Vietnam.

Today, Poland is the only country with most-favored-nation status which is sending arms to North Vietnam. Poland is second only to the Soviet Union among East European Communist countries in the number of ships it sends through the port of Haiphong each month.

Last year, an Associated Press report quoted Mr. Zenon Kliszko, a member of the Polish Communist Party, Politburo, as saying to the North Vietnamese:

We are glad the Polish guns are bringing concrete results to you in your fight. We are giving and we will continue to give material, political, and military aid.

There is growing evidence of Polish anti-Semitism. Scarcely 25 years have gone by since nearly 3 million Polish Jews were exterminated in the concentration camps and gas chambers of the Third Reich. Today, the remaining few thousand Jews in Poland—probably not more than 25,000—are again the target of official repressions.

In 1964, the President used the discretion given him under the Trade Expansion Act of 1962 to determine that the continuation of Poland's most-favored-nation status was in the national interest.

I submit that in the 4 years since that determination was made, conditions have changed and we now find Poland assisting our enemy in North Vietnam and embarked upon a program of anti-Semitism against its Jewish minority. I call upon the President to review this matter taking into account developments in Poland since 1964, and to tell the Congress why Poland's most-favored-nation trade status should be continued.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of a resolution adopted by the Board of Governors of the B'nai B'rith at a meeting in Washington, D.C., on May 11–13, 1968.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY THE BOARD OF GOVERNORS OF B'NAI B'RITH MEETING MAY 11–13, 1968, WASHINGTON, D.C.

Faced with a demand from the Polish people for more freedom and independence, the Polish government has responded with brutal force and shameful fabrications, combining police clubs and political anti-Semitism to defeat the freedom movement. Borrowing from the notorious tactic of the Russian Czars, the government has played on anti-Semitic prejudices and scapegoated the Jew to deflect attention from its own weaknesses. The student demonstrations and the protests, it has falsely said, were a Zionist plot.

Since anti-Semitism is condemned by Communist ideology and by world opinion, the Polish government has pretended that its target is Zionists, not Jews. No one is deceived. Even the Communist press in other countries, notably Czechoslovakia, has condemned the Polish government's tactics.

Poland is one of the dwindling number of countries in Eastern Europe that slavishly follows the Soviet Union's lead. After the Six-Day War in the Middle East, the Soviet Union severed diplomatic relations with Israel and intensified its program of vilification of Israel and Zionists. Dutifully, Poland followed the Moscow line. Now it has exceeded its teacher in its harsh discrimination against Jews in government and in the universities.

In 1958, Congress authorized the President to extend the most-favored-nation tariff benefit to Yugoslavia and Poland, whose governments were then moving away from Soviet domination and were seeking closer relations with the West. Poland continues as one of only two nations of East Europe that enjoys the privilege of its exports entering the United States at the lowest duties imposed by the tariff act. Ironically, Rumania and Czechoslovakia, substantially independent and genuinely seeking better relations with the West, have not been granted this economic advantage.

In view of the Polish government's encouragement of anti-Semitism and hostility to the West, B'nai B'rith calls upon the President of the United States to declare that the conditions which led to granting most-favored-nation benefits to Poland no longer exist, and that therefore this preferential status be rescinded.

A systematic, government-organized campaign of anti-Semitism can no longer be regarded as simply a matter of domestic concern. Our generation knows too well the ultimate cost in lives and civilized standards. The governments of the world must speak out against this reactionary menace.

A HALFWAY HOUSE CAN MAKE REHABILITATION WORK

Mr. DODD. Mr. President, our prisons, detention homes, correctional institutions, and reformatories do not always live up to their high sounding names.

All too frequently, the facts show, the opposite is true. They are notoriously known among penologists as the "finishing" school for the amateur criminal, and for providing the first "professional" instruction for the beginning criminal.

Government is slowly recognizing this, and I hope will do something about it in the not too distant future.

Because of the lack of "reform" in reform schools, and the lack of "correction" in correctional institutions, the halfway house concept has developed.

The idea is simple enough. It helps prisoners, male and female, addict and burglar, who have spent long periods of time in the confinement of a prison to adapt himself to the rigors and self-discipline of life as a free man.

It eases the pain of adjustment from the precise, ordered life of an institution to the much more difficult life of a free man where the person does things because they should be done, rather than because they must be done.

Ideally conceived, the halfway house convict who has become an automaton in prison and with very humane treatment makes him over again into a human being. It helps him adjust.

There are far too few of these halfway houses. There is far too little interest in what happens to the thousands of people each year who are released from prisons and returned to society.

Such is not the case in Hartford, Conn., however. There is a difference in Hartford. There are people who care. There is the Watkinson House, a half-

way station to help prisoners through those first, dangerous 90 days of freedom after prison.

The story of Watkinson House, its executive director, Ralph Cheyney and the important job it is doing in making former prisoners into useful citizens is told in the May 1968 edition of Connecticut Life, a newspaper supplement published in West Hartford, Conn.

Halfway houses fill a gap in the reformation process now largely ignored by government. And government fails in reforming and correcting prisoners to the extent it does not see that the prisoner is blended back into community life with a minimum of problems.

Mr. President, I ask unanimous consent that the article on the Watkinson Half Way House—"A humane idea helping men over the shoals between prison and freedom"—be printed in the RECORD.

I commend it to the attention of Senators. It is a subject which this Congress and the next will be required to consider. I hope that when it is considered here, Congress will take the same humane approach as that taken by those who support Watkinson House.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

HALF WAY HOUSE—A HUMANE IDEA HELPS MEN OVER THE SHOALS BETWEEN PRISON AND FREEDOM

Today, at this moment, there are 3,095 criminals locked up in Connecticut prisons. Sooner or later 99% will be free, and back in town, somewhere. Even lifers, after 25 years, become eligible for parole. Every year the state prison at Somers releases 500 men. When they hit the street all any expert is certain of is that prison has changed them. There is a good chance that change is not an improvement.

As it sets him free, the state gives each prisoner a 90-day prerelease briefing on how to make it outside, and a parting word: "Everything is not going to be rosy." The state gives him also one set of work clothes complete with underwear, gloves and shoes, packed in a cardboard suitcase tied with a string.

He is dressed, by the state, in a suit, white shirt and tie, and, black Navy shoes that are, he is convinced, the give-away, telling the world these clothes are the uniform of an ex-convict. Gloomily he suspects that everyone who sees him *knows*.

"I had $45 when I got out. The first day I bought a $35 pair of shoes. Those state shoes were like a sickness to me. I had to get rid of them. At the prison they ought to prepare us for these feelings. I was sick for clothes of my own. I see that now. But I couldn't help myself."

He comes down from prison, usually to a city since he is, as most convicts are, a city boy. He probably has $35 in cash—$20 the state gives every man as he is released and perhaps $15 saved from prison earnings. He has the promise of a job, but he won't get his first paycheck for two weeks. He must pay his room rent in advance.

He eats, he travels to work, he needs toothpaste. The phone is a dime; the laundromat a quarter. Maybe he has a beer. His money is all gone. Another week's rent is due. He can starve. Or he can borrow money, maybe, from his new employer or his parole officer. Or he can steal. Three-quarters of all the men who are returned to prison go back within the first 90 days.

If he's in Hartford there is one difference. He can go to the Watkinson House, a "halfway" station where he can stay for nothing, or possibly work his way, until he has some money. When he can pay the charges for board and room are scaled to his income—$14 plus 10% of his take-home pay. He can stay as long as he needs to; the longest stay was a little over a year. The shortest, says Executive Director Ralph Cheyney, "was the time it took to come in the front door and beat it out the back." The halfway house purpose was to shelter ex-convicts during their first, dangerous, 90 days of freedom. Two months is the usual stay.

In 1966 Watkinson House won the right to open its doors to its first ex-convicts, against whose coming the neighbors had fought four bitter years.

The first residents may have seemed timidly chosen. Gung-ho reformers, none of whom lived in the neighborhood, criticized Cheyney's cautious selection of "nice" ex-convicts, and especially of "safe" ex-convicts who didn't really need a halfway house. The first year, in deference to a nervous neighborhood, there were restrictions against accepting some kinds of ex-convicts.

From that careful beginning the halfway house with a practical courage gradually included men whose crimes were sufficiently terrifying, though not to the Cheyney family. Ralph, his British wife, Gloria, and their sons Alexander 4, Roland 2, and the new baby Allan, live in the house with the men, who seem to find in their daily association with the family, especially the children, a warmth that makes Watkinson House more like a home, and less like an institution. They are impressed that this family calmly accepts them.

At dinner, one night this spring, there were at the table the Cheyney family, a woman guest, one murderer, one bank robber, a man whose crime was a sex violation. And on the other side of the table sat a group who had been convicted (and served their time for) breaking and entering, stealing cars, assault and battery, and one forger.

After almost two years, and 110 resident ex-convicts, the neighbors' fears of a crime wave on Irving Street were not realized. No rapes, no robberies. The property values didn't even go down. One resident of Watkinson House did get involved in a mugging—some other guy mugged *him*.

The principal consideration in accepting a new man is not his crime but how much this halfway house may be able to help him.

Watkinson House can hold only 12 men at a time. Its director picks his own, constantly changing, dozens. They may be fresh out of prison or fresh out of luck—men who have been making it on their own for as long as a year, then lose their jobs, get sick, or for some reason need help. They turn to the halfway house for time to pull their lives together.

Some residents come from state jails, and other correctional institutions. This month, under a new prerelease program, a few carefully screened federal prisoners work in the community and return at night to Watkinson House. Only these residents are subjected to curfews, sign-outs and bed-checks.

For everybody else there are only three restrictions: no drinking, no girls in the bedrooms and no smoking in bed.

On Tuesdays chess experts come over to teach, and play, chess. Once in awhile Trinity College boys drive up and take the men bowling.

On Wednesdays, a few directors and friends of Watkinson House bring along their wives and join the men in an evening of playreading, and after the readings, in the "pretty heated discussions" which the men say is the part they like best. They've read Cyrano, an Inge play, and lately "Only the Valiant" a play about Connecticut State Prison. The men thought it was a faithful portrayal of prison life.

Something else (besides money) an ex-convict is often short of is a social life, especially if he's been a long time away from home. Watkinson House tries to relieve this shortage too—developing recreational and social skills. President of the Board, Attorney John Berman sees this as "an area where we are falling down. I'm happy about the playreadings, chess lessons and the few people who drop in from time to time. We need men who can stop by and visit, who can find common interests with the residents. Even to take them out to a bar for a drink and talk. We've got to give the men who are living at Watkinson House enough influence of people who are law-abiding." Because there are old friends who welcome ex-cons back in town:

"The people they had associated with, as criminals, in the past, would wait for them to come out. Perhaps the guy coming out had been a pusher; the users were waiting. Or he was a user and the pusher was waiting. And thieves. They run in packs. They need each other. And it goes like that. When you get back on the street, they are waiting."

Most of the people they loved, were *not* waiting. It is estimated that more than 50% of the wives of convicts divorce their husband while he is in prison, probably mostly on the legal ground of "intolerable cruelty." (Conviction of a crime is automatic grounds for divorce only in cases of life imprisonment or specific sex offenses.) Nobody cares to guess how many other wives without the formality of divorce abandon their marriages just the same.

Ralph Cheyney says he tries to help men re-unite with their wives and families. "But our batting average hasn't been very good. We do reach out, not only in the marriages but in trying to get our younger men back with their familes. It's not unusual for me to call up and say, "Look, your brother is here. Why don't you come and see him?" Almost half the men at Watkinson House failed to receive a single Christmas card or letter addressed to them.

If a man should lose, or more probably, quit the job he took when he was released from prison, he can move in (if there's room) at Watkinson House. Ralph Cheyney will help him find another job or direct him to someone who can (like the Connecticut Prison Association who last year got jobs for 1,058 people paroled from state institutions). He has personally placed ex-convicts in jobs honestly good enough for their talents. That is a circumstance a great many men who have been in prison say they have rarely experienced:

"This job was supposed to go for $70 a week. As soon as they heard I was an ex-con the guy dropped it down to $55 because he knew he could do it. All a person could do if he wants the job is say 'yeah, I'll take it at $55, and hang his head. And, oh beautiful! He's doing me a favor."

Ralph Cheyney, who works a 100-hour week, spent 2,000 hours in one year counselling residents and their families. "These men have problems," he says, "I try to be available to them."

He also conducts weekly group counselling sessions. The men in the group changed the name of the game from "group therapy" to "group meeting" and voted out the tape recorder on the grounds that it made them feel as though they were back in prison. Cheyney persists all the same. "Maybe the men don't like it but we ought to keep trying. We might just hit with one or two of the 12 who are sitting there."

The counselling done at Watkinson House can't and doesn't try to repair the damages of a lifetime. (Nor does it take the place of the parole officers who, even with their present case loads of 50 men each, are nevertheless the principal source of guidance for all Connecticut parolees, including those who live at the halfway house.) For a couple of months residents get a little practical help, a little counsel, a little time to adjust to a freedom that finds him ill at ease on the phone, irrationally terrified

to cross the street, in traffic, plagued by a constant fear he is on the wrong bus.

Cheyney measures his program's effectiveness in numbers: "Only one-tenth of the 110 residents were returned to prison while they were living at the halfway house." And he measures Watkinson House also in words: "The man comes out with a higher image of himself than when he came in. We have given him a growth experience."

As for the residents themselves, some men have, after a short stay, left the halfway house, unchanged and unimpressed, putting down Ralph Cheyney as "just another Big Brother running an orphan asylum for adults." Others have been helped, and have been grateful:

"Cheyney and his family and the staff cared about me, in spite of my record, and they weren't afraid of me. They went down with me to my first job, coaching me and bolstering me up. They encouraged me to start saving, to visit a psychiatrist, to go to night school, and to be open with myself. I began to feel less confused and scared.

But even to those who make it, society still looks like the enemy:

"What happens, a person comes out . . . regardless of whether he's been rehabilitated or not, the most important thing is that society has not been rehabilitated. He's in a system where people are against him. They have to make sure that he does not jeopardize their businesses, their possessions, or their lives. People shun him. Any guy who comes out of a prison into this society and can rehabilitate himself, this is a phenomenal accomplishment. It takes a guy with tremendous discipline. He has to condition himself, if he's going to be successful, not to give a damn."

Half Way House makes a uniquely effective contribution to the rehabilitation of society, says its 36-year-old President Berman. "As a private organization, we are able to be much more of a conscience and make the community much more aware of the convict's problems. If we were a state organization, people could feel the state was taking care of the job."

Racing around from group to group, Ralph Cheyney spent more of his time this past year rehabilitating society—with speeches, community relations, public relations and community education—than on all the rest of his job put together. (In addition to Cheyney, Watkinson House—on a budget of $42,000 a year—is staffed by one full-time assistant Joe Becton, two relief supervisors, a part-time secretary and a part-time cook.)

If one halfway house, in one city, sheltering one dozen ex-convicts, is a good thing, should there be more? Yes, says John Berman. "It may be that the new State Department of Corrections might ask us to become a part. I don't think I'd favor that. I feel being private we are able to do new things a state organization couldn't do. Maybe the Community Chest will help us . . . We ought to have halfway houses in New Haven and Bridgeport, and halfway-in houses as well." Cheyney adds, "When an entire community was fearful of the program, this small agency stood firm and held its ground. That's the value and the role of a private agency . . . to pave the way."

FEDERAL SPENDING AND THE NEED TO REDUCE IT

Mr. DOMINICK. Mr. President, Costilla County is located in the San Luis Valley. It is high, protected by mountains to the east and south, has a low rainfall, is the oldest settled town in Colorado, and has beautiful scenery and dignified, courteous, pleasant people.

The editor of the Costilla County Free Press is well known and highly respected, and he reflects his thoughts in a clear, frank manner. In the March 29 editorial, he discusses Federal spending and the urgent need to reduce it. In his May 3 editorial, he discusses the same situation again. Because I believe that these editorials reflect the great, good sense of a majority of our citizens, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Costilla County (Colo.) Free Press, Mar. 29, 1968]

AN APRIL 15TH REMINDER

When the typical American family talks about buying a new car, building a home—or any other major expenditure—the head of the house usually asks some searching questions.

Can we afford it? Do we have the money, or will we borrow?

The average American family doesn't buy on impulse . . . we can't indulge our desires without regard to our pocketbooks. We must of necessity choose wisely.

But there is something we all buy each year with very little choice and with questionable satisfaction. It's the package presented every year in the federal budget—a package we pay for dearly with our taxes.

Today the federal government seems preoccupied with the issue of consumer protection. It wants to be sure our package of breakfast food is full and plainly marked; it wants us to be fully aware of the cost of borrowing money.

Right now, when many of us are having to think about borrowing to pay our taxes on April 15, we might well wish that our benevolent Uncle Sam would worry less about the size and weight of our breakfast food package and show more concern about our plight as harried taxpayers.

When the Administration in Washington last summer proposed a surtax to help reduce large and persistent federal deficits, many economists and businessmen pointed out that a sharp slash in government spending would be a better solution. The government continues to face a critical balance-of-payments situation, growing inflation, and interest rates at century-high levels.

A substantial cut in federal spending would help solve all these problems and of course help all of us as individual taxpayers.

Do your legislators in Washington know how you feel about excessive federal spending? It costs just six cents to express your views.

[From the Costilla County (Colo.) Free Press, May 3, 1968]

HARD TO UNDERSTAND

Income tax time (April 15) has come and gone. Money collected by Uncle Sam hasn't been sufficent to pay all his bills; $20 billion deficit will be added to the national debt, which already is greater than that of all the other nations combined. There are a number of things which taxpayers would want to ask Uncle "Is this money really necessary". Or we might want to bring up this subject:

You allow taxpaying parents only $600 a year to feed, clothe, house and educate a youngster. Yet to feed, clothe, house and educate a youngster in your Federal Government Job Corps you spend from $7,000 to $11,000, depending on whether he sticks around or becomes a dropout.

Either we're allowing you too much, Uncle, or you are not allowing us enough. And, to carry this a bit farther, under your Cuban refugee program you reach the conclusion that minimal upkeep for a child requires $1,200 a year, and if the child is attending school an extra $1,000 a year. It looks like you're shortchanging the homefolks.

In the confining and austere environs of a Federal prison, you have somehow discovered that it costs—to maintain one person, with no frills, no luxuries, and no borrowing Dad's car—$2,300 a year. How do you find that Mom and Dad can do much more than that for one-fourth that amount?

Also, Uncle, your VISTA program, Volunteers in Service to America, spent $3.1 million this last year to turn out only 202 trainees. That works out to maintaining and training one youth for one year at a cost of $15,000.

We might also want to point out to Uncle that, with all of our present unprecedented prosperity, he is spending per year $2.9 billion more for relief than during the depth of the Depression of the '30's. Could it be, Uncle, that you are a bit extravagant?

Actually, of course, the cost of feeding, clothing, housing and educating large numbers of people should be less, not more, per person than it is for two or three persons.

Maybe few people know it, but Uncle gives the mother of an illegitimate child $800 a year for upkeep, under the Aid to Dependent Children program, while permitting parents of a legitimate child only a $600 tax deduction.

Uncle, which is the correct figure?

HANOI'S FIGHTING BARS UNLIMITED TALKS

Mr. McGEE. Mr. President, North Vietnam's determination to keep on pressing its attacks against South Vietnam have had the effect of limiting the hope for any substantive negotiations in Paris. It is clear, however, as Crosby Noyes points out in a column published in the Evening Star of June 1, that the losses Hanoi is taking on the battlefields of South Vietnam cannot be sustained indefinitely, even if the talks in Hanoi can be. What this means, of course, is that we must continue to meet the military situation in Vietnam, maintaining the pressure on our adversary to settle down to serious negotiations for a settlement that will insure firm guarantees to prevent renewed warfare.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HANOI'S FIGHTING LIMITS BAR UNLIMITED TALKS

(By Crosby S. Noyes)

GENEVA.—The widespread impression of observers in Paris that the leaders in Hanoi may be prepared for talks of virtually indefinite duration has some puzzling implications in the light of the military situation in Vietnam.

It is perfectly true, of course, that the Communists are in no hurry at this point to move out of the phase of pure propaganda to the substantive problems involved in a settlement. Undoubtedly, they are waiting for developments in the war and in the American election campaign which they hope will be favorable to them.

This seems likely to rule out any real progress for some time to come—perhaps until after the American political conventions in August, perhaps even until after the election in November if a candidate whom they consider congenial to them should be nominated.

At the same time, however, the talks in Paris are an integral part of the Communists' military operations in Vietnam. And there is at least some reason to believe that

those military operations have been planned on a fairly restricted and limited time table.

The evidence is that we are at the beginning of a long hot summer in Vietnam. Gen. William Westmoreland and his chief subordinates are firmly convinced that the recent offensive against Saigon is only the first round of a series of spectacular stabs which the enemy is preparing to launch in the months to come.

The next major effort is expected in the Central Highlands. After that, in all probability, the northern provinces will come under pressure again, with the main thrust perhaps directed against the city of Hue. And in due course, when he has had time to regroup and replace his losses, the enemy may well take another swipe at the capital.

These attacks, it is constantly emphasized in Saigon, have been planned exclusively for their political effect. In terms of military significance, they promise to be quite literally suicidal from the Communists' point of view. The willingness of the leaders in Hanoi to take casualties at a continuing rate of up to 10 to 1, purely for the sake of the headlines they will produce, is the clearest possible proof that a political victory is the real and, indeed, the only hope the Communists have.

But it is also quite clear that this kind of suicidal effort, unlike the talks in Paris, cannot be sustained indefinitely. The fact that Hanoi today is replacing troops in South Vietnam with boys as young as 15, with as little as two weeks of training, is reasonable evidence that the manpower situation in North Vietnam has reached a critical stage. And quite apart from the evidence, the Communists themselves at this point are advertising the fact that the war has reached its final climactic phase.

It would seem, therefore, that the talks in Paris and the military effort in Vietnam are both closely tied to the American political timetable. The logical assumption is that the Communist leaders came to Paris believing that a political victory, in the wake of President Johnson's withdrawal, was clearly in sight. Their objective, within the next three to six months, will be to nail down that victory, whatever the military cost may be.

This, however, does not answer the question of what will happen in Vietnam or in Paris if the expectations of the Communist leaders turn out to be mistaken. What Hanoi will do if the American electorate fails to cave in on schedule and elects an administration firmly committed to seeing the war through makes an interesting subject for speculation.

What is likely to happen in Vietnam is not really much in doubt.

If the prospect of an early political victory goes up in smoke, the whole point of Hanoi's climactic military effort will go with it. Fanatical as they may be, the North Vietnamese leaders would certainly not be interested in continuing a ruinous and futile military exercise on anything like the present scale. A drastic reduction of the Communist military effort—perhaps down to the level of scattered guerilla operations—would be almost inevitable.

But before this happens, things may start to move rather rapidly in Paris, assuming that the talks are still going on. If the Communists, in fact, are willing to make any settlement at all short of total victory, they will try to do it before any significant slackening of the military tempo in Vietnam takes place.

There is also some reason to believe that they would press for a settlement of some kind rather than let the war fizzle out. For one thing, any settlement would certainly include a provision for the early withdrawal of American military forces from Vietnam, leaving Hanoi in a position to renew the war when the time is more propitious.

The aim of the allies, of course, will be to insure against this by the firmest possible international guarantees to a settlement. And this should be possible—provided always that we have not lost our nerve and thrown in our hand in the meantime.

MURDER IS MOSTLY A "FAMILY AFFAIR," AUTHOR SAYS

Mr. DODD. Mr. President, I agree with Miami Beach Police Chief Rocky Pomerance that the arguments for extremely tight control over gun sales are sound and that the way to lower the murder and mayhem rate is to lower it at the gun counter, prior to the point of purchase.

Chief Pomerance's views were published in an article in the Miami Beach, Fla., Sun, May 8, 1968, in a first-class discussion of the firearms problem by Ted Crail.

Mr. Crail handily dismisses the tired, worn out arguments of those who oppose firearms laws for both practical and philosophical reasons. He gets down to the heart of the matter, and that is who kills whom and why. Mr. Crail observes:

We bump each other off at an astounding rate, often for astoundingly inconsequential reasons; around every murder victim there are concentric rings of other sufferers—the family of the victim, the family of the murderer, the insurance company which pays the policy, the taxpayer who keeps up the prison.

Most of the victims in shootings are close relatives or friends. A study now being conducted by the Juvenile Delinquency Subcommittee in 130 cities across the Nation proves this beyond all question.

It also proves that most of those who kill with a gun have a record of crime and instability.

Mr. Crail made this observation:

Few murderers ever get around to strangers. As a matter of fact, the figures are alarming—murder is very much a family affair. Take New York city: Husbands, wives and common-law mates are running neck and neck as the quickest shots on the block.

And that old bugaboo about having a gun for home protection is neatly filed away by Mr. Crail with the observation that—

It is important to remember that few burglars and few rapists are felled by eagle-eye marksmen wearing pajamas and a look of righteous anger. It's mostly wives, girl friends, boy friends, husbands, nephews, uncles, aunts, mothers-in-law, brothers, sisters, daughters, sons, common-law scamps and interfering inlaws who get gunned down in the hallways.

Mr. President, Congress has yet to enact any new Federal firearms laws. On May 23, the Senate approved such legislation as title IV of the Safe Streets Act, S. 917. The matter is still to be passed upon by both the House and the Senate before it goes to the President for signature.

I commend this article to the attention of Senators as they prepare to cast their final vote on the firearms matter, and ask unanimous consent this entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HANDY GUN, HANDY VICTIMS

(By Ted Crail)

(NOTE.—Few murderers ever get around to strangers. As a matter of fact—the figures are alarming—murder is very much a family affair. Take New York husbands, wives and common-law mates are running neck and neck as the quickest shots on the block.)

If you could always tell who is likely to use a gun—and why, and when, and how well—well, then there would be no problem with guns, would there?

But you can't tell.

You couldn't possibly have told about Philip John Donovan. He was 24 years old, handsome as a lady's prayer. Almost four years ago, hundreds of curious and horrified residents of South Shore watched from a distance and tried to read in the handsome face of Philip John Donovan just what a gun had meant to him and why.

For Donovan it meant a wrecked life; for desk clerk B. Richard Stubbs of the Bolivar Hotel at 740 Ocean Drive it had meant the very end of life. Stubbs was an absolute stranger to Donovan. Yet Donovan had killed him.

It all happened in an instant and an arresting officer claimed that Donovan had said—just minutes later, as police quickly chased him into a trap—"I did it. I'm sorry. You guys work fast. Don't you feel sorry for me?"

The morning after Donovan was caught police walked him on a trail of blood—his own. Hundreds watched, gathering the import of the scene as a whisper passed through the crowd ("He's the murderer!"). At the Life Bar the night before, he had whipped out a gun and pulled a spur-of-the-moment robbery Then he had dashed on through two hotels, killing Stubbs at the Bolivar. He fled to the beach and was quickly captured. As Donovan—with policemen all around to guard him—retraced the murderous steps he had taken, a kind of disbelief could be seen on the faces of that mob of troubled people watching the terrible pantomime.

So this was what a murderer looked like! So much like the son of any one of them.

Murder, as it happens, is sufficiently a part of daily life that Donovan is almost forgotten here. The reasons why he had "broken bad," as policemen sometimes put it—well, those were mysterious though it was easy to see a certain neurotic pattern in his life. It seemed to go back to feelings about his family.

The intriguing question is not so much why Philip Donovan broke bad—so many boys do, don't they?—as what would have happened if there had been no gun to whip out. Would there have been an erratic robbery by an erratic young man? Would an erratic murder have followed the erratic robbery? Or would it all have ended differently somehow? Would Stubbs be alive today if the gun was not so readily a part of the American environment?

To gun-haters, the answer is obvious; to gun-lovers, the answer is just as obvious—but not the same. Both groups have oversimplified to a large extent.

Miami Beach Police Chief Rocky Pomerance believes that the arguments for extremly tight control over gun sales are sound. He says that most top law enforcement men around the country believe that the significant way to lower the murder and mayhem rate is to lower it at the gun counter, prior to point-of-purchase.

Most of the arguments on both sides of this subject are tired out from over-use. There are both practical objections ("How do I defend myself against bandits?") and philosophical objections ("Wouldn't the mass of men be subject to the dictatorship of a minority?") to taking weapons away from the common man. But there are also practical and philosophical objections to not doing it—we bump each other off at an astounding rate, often for astoundingly inconsequential reasons; around every murder victim there are concentric rings of other sufferers—the family of the victim, the family of the murderer, the insurance company which pays the policy, the taxpayer who keeps up the prison. It's all been gone over before. Nobody seems to change position

though the gun-sellers are getting more cautious and incidents like the assassination of Martin Luther King cause a momentary swelling in the ranks of ban-the-gun advocates.

Perhaps the most overlooked fact in the whole controversy over guns is this: murder is a family affair.

It may be chilling to think of it this way but if you live in an emotional household—and most people do—to put a gun in your house may be to put it within reach of your murderer. Worse, it may make a murderer out of someone who otherwise would be nothing worse than a pop-off with a quick-flaring, quick-dying temper. Worse still, that pop-off who will do time for murder—it could well be you.

You don't think so?

It's curious that, the closer you look at any homicide, the more it goes back to the home. Even that complete stranger-shooting-stranger encounter between Philip Donovan and B. Richard Stubbs had its origins not in some chance events in Miami Beach but in feelings of antagonism generated years before. Detectives were sure of this when Donovan, after his arrest, did a highly significant thing—of no particular use in court but of great use in understanding human nature. He called his mother to tell her about the murder.

It is stretching a point, however, to call the Donovan case another chapter out of the family casebook. This was as remote from the home as murder ever gets.

In the typical case, murder meets the description from Rocky Pomerance; husband or wife or boy-friend or girl-friend will "have a fight, it gets emotional, they look around for a weapon—if there's no weapon, it may result in the throwing of something but with a gun handy—once you squeeze that, the remorse is considerably extended." A professional view. Here are the figures:

Nationwide, 82 percent of all murders occur within families or between people who know each other. The criminal plugging a boy at a gas station—that's rare. Common: a sudden ferocious encounter between two people who embraced each other the day before and would, without a gun handy, embrace each other again 24 hours later.

The gun can make the difference.

Even in New York, that city of strangers, 72.8 per cent of the 746 murders which occurred there last year were, as the New York Post's Anthony Mancini pointed out, the work of murderers with a deep personal connection with the victim. There is a fascinating break-down on this. Part of it:

Thirty-two girl-friends were killed by boy-friends.

Thirty-one wives were killed by husbands.

Twenty-two husbands were killed by wives.

Twenty-one common-law wives were killed by common-law husbands.

Eighteen boy-friends were killed by girl-friends.

Eighteen daughters were killed by fathers.

Seventeen daughters were killed by mothers.

Sixteen sons were killed by fathers.

Twelve sons were killed by mothers.

Eleven common-law husbands were killed by common-law wives.

Four fathers were killed by sons.

Two brothers were killed by brothers.

Two uncles were killed by nephews.

Two aunts were killed by nephews.

Two cousins were killed by cousins.

Two mothers-in-law were killed by sons-in-law.

Two brothers-in-law were killed by brothers-in-law.

Two daughters were killed by both parents.

Two nephews were killed by an uncle.

One son was killed by both parents.

One mother was killed by a son.

One grandmother was killed by a grandson.

One daughter-in-law was killed by a father-in-law.

Put all that on a chart and you'll find it demonstrates the proposition that murder is always nearest from those who are supposed to be dearest. To live with the hot-tempered is one thing; to put a gun within reach is another.

Depending on temperament, the person reading these figures will make many deductions. The most common probably is: "It can't happen to me." That's why so many murder victims die with a look of surprise on their face.

It will not be easy—given the current mood of this country—to get or to keep a ban on weapons. Certainly it will not be easy to police any such law; it can be easily subverted—guns can be shipped from anywhere, the hood will probably be able to order anything up to a submachinegun and find contraband artists who will get it for him.

But "to order" requires premeditation. Delay and difficulty of any kind would stop the majority of murders before they start. Like suicide, it is often the act of a moment; to be regretted for a lifetime.

Few murders come from sufficient motive; they merely originate with sufficient anger. These statistics on murder clearly show that access is everything. The murderer, when his dander is up, finds a handy victim when he has a handy weapon. How combat it then? By making the weapon less handy. It's the only step that will count.

An officer says he doubts that any strong move in the direction of total gun prohibition can be accomplished right now. "And that," he said, "is because the question has been somewhat confused with a new fear in this country—fear of rioting conditions and so forth."

There is a form of gun prohibition, however, which you can indulge in tomorrow: you can prohibit guns in your own household.

If this seems dangerous, it is important to remember that few burglars and few rapists are felled by eagle-eye marksmen wearing pajamas and a look of righteous anger. It's mostly wives, girl-friends, boy-friends, husbands, nephews, uncles, aunts, mothers-in-law, brothers, sisters, daughters, sons, common-law scamps and interfering in-laws who get gunned down in the hallways.

On this point, the figures are absolutely devastating. You might say deadly.

COMMENCEMENT AT IN-PLANT HIGH SCHOOL

Mr. HARTKE. Mr. President, last year I brought to the attention of my colleagues a remarkable program wherein adults may complete their high school education through classes held at the factory before and after work shifts.

This year it was my pleasure to be the commencement speaker at the "In-Plant High School" at Western Electric in Indianapolis. Speeches made by the new graduates during those ceremonies demonstrate better than anything an outside observer might say the merit of this program which is now being copied elsewhere by enlightened management. I ask unanimous consent that those two speeches appear in the RECORD.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

IN-PLANT HIGH SCHOOL GRADUATION CEREMONIES

(Class address, by Blanche Robinson, May 27, 1968)

It is a pleasure for me to speak for the class today.

I'd like to thank Western Electric for starting the In-Plant High School. And I'd like to thank the teachers for coming out here to teach us when they could have been home with their families.

The teachers say they would rather teach us than our children because we try harder. They also realize that we go to school because we want to learn. Some of the children don't care whether they learn or not. If they only knew what is before them!

I thought about going back to school long before they started the school here at the plant. But, I knew I couldn't go to Tech evening school and work, too. Even after they had the school here for more than a year, I waited before I enrolled.

You may wonder why an older person like me would want to go back to school. But, when your children come in with home work and you can't help them, you know it's time for you to do something about it.

Then, you think . . . Oh, I just can't go to school!

I've found that you can do about anything you put your mind to. It isn't easy to go to school for three hours after you've already worked eight hours. But, believe me, it's well worth the time.

Completing high school gives you confidence. Before, I wouldn't take part in any activities. Now, for example, I teach Sunday School . . . and I really love it.

I know I couldn't have done any of this without God's help. And my family has been a great help . . . doing the housework and encouraging me. We all worked together, and without their help, I couldn't have finished high school.

Now, I want to go to college and take some business courses. Truly, this is a day I have looked forward to for a long time, and I know all my fellow classmates feel the same way.

This is one of the happiest days of my life!

IN-PLANT HIGH SCHOOL GRADUATION CEREMONIES

(Class address, by Richard Hagan, May 27, 1968)

As the world looks to America today, what do they see? A nation progressively moving forward, or a nation in digression? On every hand there is destruction and violence, burning, looting, killing, and even cold blooded, premeditated murder. Can education save our nation?

In the wake of violence and strife that is tearing at the very heart of our nation, it is my belief that through various fields of education our nation can become what it was founded for; freedom and justice for all. Why do we continue to carry the yoke of hatred, greed and strife that our forefathers sought to leave on distant shores? I believe we have failed to educate ourselves about the bigotry our forbearers tried to leave behind.

Education in the field of religion has been by-passed for our desires for material gain. We have forgotten the God our forefathers came to this land to worship. Yes, our churches have large memberships, but do we worship God with our hearts?

With the love of God in our hearts we will love our fellow man, and will no longer wish to burn down his home, loot his store, lynch or shoot him in ambush. Through faith in God's word, our churches can give us this love which will cause us to love our neighbor as ourselves.

Education in the field of Social Studies will help us understand our fellow man, his problems, and why his behavior is peculiar to ours. This will help us communicate with a deeper understanding, thus tearing down the barriers of greed and strife between races and nationalities. It will also bridge the generation gap between us and our children, which is widening with every succeeding generation.

Education in the field of agriculture and livestock production will make it possible

to feed thousands of undernourished in our land at a minimum cost.

Education in the field of conservation will give ourselves and our children a greater abundance of natural resources. This will give us a higher standard of living, thus raising the social and economic standards for those who are trapped in the ghettos of our cities. I believe the most effective war on poverty is through a useful education.

Education in the field of medicine can free us from dread diseases that cause birth defects, cripples our children and forces people to quit work at a young age. Through medical technology, overcrowded hospitals could become a thing of the past.

Our forefathers came to this land to escape the evils of greed and strife, so why should we recreate those same problems in the twentieth century?

Because knowledge brings understanding and overcomes bias and prejudice, each one of us should do all we can to promote and extend our educational facilities through our legislative rights and, if possible, with dollars, to see that all the people in this great land are given equal opportunity, as their God given heritage, to become educated, law abiding, and God fearing citizens.

Let us, through education, give a better nation to a better generation.

MOUNTAIN MINI-SAFARI

Mr. BYRD of West Virginia. Mr. President, West Virginia is noted for the beauty of its rivers and mountains, and, therefore, I am pleased to note in the outdoors section of this morning's Washington Post an article about Mr. Frank Harmison of Berkeley Springs, W. Va., who operates a float trip down the Cacapon River.

These float trips are a good way to see the river and the surrounding countryside.

I ask unanimous consent that the article, entitled "Guided Float Trips Set Up for Cacapon," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GUIDED FLOAT TRIPS SET UP FOR CACAPON

(By LeRoy Whitman)

BERKELEY SPRINGS, W. VA.—Frank Harmison, managing editor of the county's weekly newspaper, has cleaned out his desk and is laying the groundwork for devoting full time to what always has been his first love and his hobby—the outdoors.

Harmison will open for business on June 15 under the title "Mountain Mini-Safari." His operations will embrace taking visitors on float trips down the Cacapon and Potomac Rivers, serving as a guide for hunting, night fishing or hiking, scenic or historic tours, or virtually any outdoor activity. Main emphasis will be on adventure and passenger participation.

Last year the Coolfont Recreation organization here operated float trips for their guests. Both the Potomac and Cacapon Rivers flow through heavily-wooded mountains alive with wildlife and wild flowers.

The float trips were popular, but handling them became an involved operation. It required trucks to put boats into the water and to take them out miles away. It tied up trained personnel needed at busy Coolfont. So this year they decided to drop them.

Mountainous scenery, wildlife, wild forests, wild flowers and wild rivers, being principal attractions of this area, the Chamber of Commerce wanted float and outdoor trips available to prospective visitors and looked around for some means of getting them in operation this year.

Just at this time, Harmison was having a problem of his own. His health seemed to be failing for no apparent cause. Finally a specialist gave him a thorough overhauling.

"There's nothing physically wrong with you," the Doc said. "All you need is to get away from that desk."

Harmison float trips and the outdoors fit together like bacon and eggs. When the Chamber of Commerce found he was interested, they offered their moral support in recommending his Mountain Mini-Safari trips to tourists.

Now he is busy getting together the boats and trucks he wants, and what help he will need.

He plans to operate four float trips a week. They will run an average of four miles, will leave at 9 a.m. and conclude about 2 p.m. or 3 p.m., with several stops along the way.

Where the floats will be held will depend upon the weather and the condition of the water. One favorite on the Cacapon will be from the low water bridge at Rock Ford rd. to the point where the Cacapon flows into the Potomac. Another will be along the Potomac from the Cacapon to Hancock, Md.

Harmison was born in this area and and has fished, hunted and tramped over most of it and knows the people along the way.

A visitor, of course, would be free to make his own float trips. But it requires a vehicle to carry the boat to the starting point and another to take it out down stream. Also, much of the shorelines are private lands and their owners look askance at strangers with trucks and boats running across it. These are problems Harmison can solve.

He can be reached by mail at Berkeley Springs, W. Va. 25411, or by phone at (304) 258-2524.

GUNS, CIVIL UNREST DISCUSSED BY CONNECTICUT LIFE

Mr. DODD. Mr. President, the Senate passed a milestone of sorts when during the first few weeks of May it debated for the first time in 30 years the need for new Federal firearms laws that would effectively keep guns out of the hands of criminals and others who are likely to misuse them during these times of domestic crisis.

It was August of 1963 when I introduced the first comprehensive bill in modern times to control the flourishing mail-order firearms trade.

I predicted then that the Senate would approve the legislation by an overwhelming majority at its first opportunity.

I made that prediction because I believed that the American people were sick of the mounting violence in the streets, and of its shoot-em reflection in our news and entertainment media.

I did not know then that it would take 5 years to get a sane firearms control bill to the floor of the Senate.

But had I known I would not have relented in pushing for its passage.

And as I predicted, given the chance to vote on it, the Senate approved it by a substantial margin.

I said the Senate would reflect public opinion, and it did.

At the time I introduced that first piece of firearms legislation, August 2, 1963, I mistakenly believed I had the support and confidence of the firearms industry, the sportsmen's groups, and the National Rifle Association.

At that time, I was convinced they, too, saw the need to keep guns out of the hands of known criminals and those who were clearly potential criminals and assassins.

My mistake, of course, was apparent a matter of weeks after the legislation was introduced. The bill, S. 1975, which took almost 18 months to write and refine, was landed on with both feet by the "gun lobby."

The documented research on the need for the legislation was ridiculed as "inadequate and inconclusive." Editors of sports magazines, editors who knew better, told their readers the sole aim of the law was to disarm legitimate sportsmen.

All this was particularly disappointing to me, in view of the fact that just a matter of days prior to the introduction of the original mail-order gun bill, we concluded a productive series of meetings with representatives of the firearms industry, representatives of sports organizations, editors, writers, collectors, and the National Rifle Association.

I was confident in my mind that I had their support for legislation that would help disarm the criminal and at the same time in no way interfere with the pursuit of shooting sports.

I was confident that we had a common interest in curbing the ever-growing number of gun crimes being committed each year, and on the runaway number of guns of all descriptions—including military ordnance—then finding its way into the hands of killers, robbers, teenagers, political extremists, and the insane.

I believed that as men of good will we could and would find common ground in our mutuality of purpose to pass a law that was in the public interest, that the public was clearly demanding, and that would protect the sportsmen's interests.

I was wrong.

We could not count on the gun industry, nor the sportsmen's groups, nor the editors, nor the antique gun collectors, nor the conservationists.

After the gun lobby finished working over the officers of these assorted organizations—most of whom do not seek the advice of their members in formulating policy—they all spoke with the same tongue.

As a group, the officers of these organizations misrepresented the feelings of millions of legitimate sportsmen by parroting the mouthings of the gunrunners.

It was impossible to tell the conservationist from the gunrunner, the legitimate hunter from the paid lobbyist.

I did not know 5 years ago that a group of firearms manufacturers and related businesses formed the National Shooting Sports Foundation for the specific purpose of opposing firearms laws.

And oppose firearms laws it did.

The NSSF let nothing stand in its way, including the truth. Most of its time and effort was spent in distortion, misrepresentation, and subversion of the truth. The remainder was expended decoying the public away from the hard facts of 18,000 firearms deaths a year and another 80,000 or so wounded and maimed.

They wanted those 100,000 firearms victims forgotten, as so many clay pigeons after the annual shooting match.

In the end, commonsense prevailed on behalf of the public good.

The first rewrite of the Federal firearms laws in 30 years is contained in title IV of the Safe Streets Act, S. 917.

Attempts to have it stricken from the law were soundly defeated. And when the Safe Streets Act cleared the Senate at 9:20 p.m. May 23, 1968—almost 5 years after the legislative battle began—it was approved by a vote of 72 to 4.

Mr. President, bringing this vitally needed legislation this far has not been easy. The gun lobby, through its distortion and outright lies, has seen to it that I have been bitterly criticized in public.

I have been accused alternately of being a friend and enemy of the gun industry and the sportsmen.

However, as time wore on, it was more and more encouraging to find that all the people were not being fooled by the gun lobby. In my own State, Connecticut, thought of as the home of the American firearms industry, many have come to support the need for workable, sane firearms laws.

I have included in the RECORD the endorsements and approvals of many outstanding public officials, newspapers, and organizations.

The May 1968 edition of Connecticut Life, a newspaper supplement edited by Bice Clemow, published by the West Hartford, Conn., News, and widely distributed throughout Connecticut, contained some thoughts by Mr. Clemow on the firearms industry and the need for the firearms laws for which I have been fighting.

Mr. Clemow sharpened the focus of this conflict when he said:

> By chance the major figure that has emerged in Federal efforts at gun sale regulation—particularly the indiscriminate sale by mail-order—is that of Senator Thomas J. Dodd. The powerful gun lobby blanches apoplectic at the mention of him, and on the other side he is accused of letting his efforts get watered down into a weak bill now before Congress.
>
> The gun lobby, which has genuinely intimidated the nation's lawmakers by avalanches of mail, thinks that licensing guns would have no effect on people who want to use them for criminal and riotous sallies. They argue that of the 18,000 or so civilians who will be killed by guns this year, more than 2,000 deaths will be accidental, another 10,000 suicidal and only 6,000 homicidal.
>
> The fact keeps intruding on our objectivity that anybody who buys a gun contemplates the circumstances under which he or she actually would use it.

Mr. President, I ask unanimous consent that the entire column, entitled "Editor's View," from which I have quoted, be included in the RECORD at the conclusion of my remarks.

The same issue of Connecticut Life contains a thoughtful article on the gun in our society. It is entitled "The Gun's Many Faces: Disorder in the Streets Triggers New Drive for Firearms Control as Sportsmen's Lobby Digs In."

As Congress continues its consideration of the Safe Streets Act, and of title IV of it dealing with firearms, I commend these articles to the thoughtful attention of my colleagues.

Many of the thoughts and ideas contained in these articles I believe, Mr. President, reflect the opinion of Americans "back home" across this Nation.

I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

EDITOR'S VIEW

(By Bill Clemow)

This month's story on guns, which we started thinking about last fall, grew like sugar crystals in a super-saturated solution—branching in every dimension. Particularly in Connecticut the gun has been a many-faceted instrument. A source of manufacturing skills and dollars, and a source of pleasure for hunters and target-shooters, the gun also has been here as elsewhere the crutch for the criminal element. As the level of violence rises in both the world and our own neighborhoods—between not only nations but between people—the gun is an historic symbol of the sheriff's final word in doing his job. In our gathering of data it became clear that more and more individuals have come to want this final word in their own hands, to be exercised at their own option. There are 45 million gun owners in this country, and there will be 2.5 million guns made this year, with retail sales for guns and ammunition running $350,000,000. The use of all these firearms, in both sports and self-defense, is carefully covered by the law and the arguments now center on whether and how the purchase of guns shall be controlled, for what purpose and with what effect. By chance the major figure that has emerged in federal efforts at gun sale regulation—particularly the indiscriminate sale by mail-order—is that of a Connecticut Senator, Thomas J. Dodd. The powerful gun lobby blanches apoplectic at the mention of him, and on the other side he is accused of letting his efforts get watered down into a weak bill now before the Congress.

The gun lobby, which genuinely has intimidated the nation's lawmakers by avalanches of mail, thinks that licensing guns would have no effect on people who want to use them for criminal and riotous sallies. They argue that of the 18,000 or so civilians who will be killed by guns this year, more than 2,000 deaths will be accidental, another 10,000 suicidal and only 6,000 homicidal.

The fact keeps intruding on our objectivity that anybody who buys a gun contemplates the circumstances under which he or she actually would use it. A handful fancies them for collector's items, perhaps two percent will use them on targets, and maybe half the gun owners will be tracking elusive wild game sometime. But that leaves a civilian arsenal which, in the tense racial relationships that have developed in the cities, does not make the authorities rest any easier. We have talked with police chiefs in major cities, and in some of the suburbs where many fear the civil malaise will spread, and it is clear that upon the chiefs' philosophy and performance the role of the gun as arbiter in civil disagreement will depend. The emerging nations of this land—the ghettoes—can be born in non-violence and Connecticut police are generally committed to helping preserve conditions under which whites and blacks can arrive at an American accommodation.

If there are hot places this summer, they are more likely to be cooled by exotic measures than by gunpowder. Chemical Mace, which the Smith & Wesson subsidiary that makes it conceives as a more effective alternate to the policeman's billy-club or "mace" is in $2.84 spray cans as part of many a policeman's kit. There are other gases, sprays, foams, skidding compounds, noises. We even read of one anti-riot experiment with a subsonic noise which can't be heard or traced yet resonates the human viscera and activates the large colon.

So, as I said, a look at guns circa 1968 took us down some amazing galleries which will perhaps perplex you as much as they did us.

THE GUN'S MANY FACES—DISORDER IN THE STREETS TRIGGERS NEW DRIVE FOR FIREARMS CONTROL AS SPORTSMEN'S LOBBY DIGS IN

In peaceful little Coventry (pop. 8320) where Nathan Hale was a boy, Negro Charles White stood before a town meeting this April and asked matter-of-factly why the police budget had included riot equipment—guns, Chemical Mace and such.

"Apparently," said White, this was to "ward off a 'long hot summer' in Coventry," set among the low, rolling hills of east central Connecticut.

"The townpeople should know," he went on, "that there are 11 Negroes living in Coventry, three of them under six years of age, and five of them who have lived here over 30 years."

Then he added, "I don't mean to be funny, and some of you will laugh, but with this $8000 for riot equipment, it would be cheaper to build a fence around us."

Coventry would forego Mace, the Board of Finance decided, but in virtually every major city of the state the exotic spray that scrambles people's senses would be standard equipment. (Its inventor is working on a spinning gas grenade that will hop around so it can't be intercepted and thrown back at police, and a projectile for gassing a fleeing man.) Frustrated by the time lag it takes to mount effective remedial programs for the ghetto conditions which spawn violence, the state's cities—and many of its individual citizens—were assessing and acquiring armament, offensive and defensive, more appropriate to the battlefield.[1]

Across Connecticut, which *The New Yorker* magazine currently notes is "sometimes referred to as 'the arsenal of America'" because so many arms manufacturers have plants here, the prospect of disorder got increasingly more than conversational attention. When small city and suburban police chiefs got together a sure question was whether disruption would become a core city export.[2]

No body has an answer to that, but police departments in the four major cities, where the vast majority of the state's poor are huddled, have been reorganizing and retraining in the light of last summer's hot nights and the restiveness that followed the assassination of Martin Luther King.

The coming summer issue was not so much over equipment for suppressing civil disorders, but the attitude and timing of any indicated police action. Both the State Police and the National Guard are going through riot control training, based on last summer's events and ordered, in the case of the Guard, by the Department of Defense. The State Police have two "task forces," North and South, of men from the regular complement. Most of the National Guardsmen in the state (6,200) have had some training for domestic deployment.

The training, according to Acting Chief of Connecticut National Guard, Col. Thomas F. Leonard, is "not new—we're just spending more time on it. We would only be committed in the event local and state police were unable to control things. We don't take sides in any disturbance—racial, Vietnam protest or whatever. We might be used in many ways but sometimes just our arrival on the scene is enough." But the Guard in this state has never been called out for a civil disturbance.

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[1] When the State Bond Commission this month approved $1,400,000 for 57 summer projects to help disadvantaged citizens in 11 cities. State Community Affairs Commissioner LeRoy Jones called it "an appropriate thrust."

[2] The state's hospital leaders, gathered last month to hear accounts of hospital chaos in the nation's cities during last summer's riots, concluded they too are ill-prepared to handle what might happen in a big civil disorder or natural disaster.

Lt. Colonel Leslie Williams, executive officer of the State Police, describes a transition in training methods: "At first the manuals envisioned large mobs, and talked about wedge formation to break up threatening crowds. Now the emphasis is on containing hit and run tactics. We concentrate on confrontation and increased patrol activity.

Col. Williams tells his men "You must tailor your actions to meet events. There are times when the better part of valor is discretion." He tells of an incident, the day after Dr. King's death, when two young ladies were knocked down, he feels deliberately by Negro girls let out from a high school annex next to the barracks. "Ten years ago," he says, "we would all have been out chasing them. This time we decided to take the mood of the day into account and we did nothing. Is this right or wrong? No one can tell, but at that time it seemed the best thing to do."

The "best thing to do" is often the emergency judgment of an elected leader, but the professional policemen of the state hope that their pre-planning will eliminate the necessity for hasty decisions after trouble breaks out. In the final squeeze, a city's response to disorder rests on the instincts and capabilities of the police chief, and between the four major Connecticut cities with ghetto concentrations this is a wide range.

In Bridgeport, the only one of the big four cities of the state which has not had headline civil strife (less than $400 damage the week of Dr. King's death), firm, paternal Police Superintendent Joseph Walsh makes no bones about it: there should be no political control in riot control. The fourth night after King's death Bridgeport did have one incident of "young kids raising halleujah," as Walsh put it. "As soon as they step out of line we lock them up."

He credits some of Bridgeport's pacific record with a cooperative community attitude and considerable police training in community relations. But mainly he feels it's because "we have a no nonsense police department." He follows the approach of Philadelphia Police Commissioner Frank Rizzo who has kept his city out of the riot column by meeting disorder with "absolute force." He argues that a hard line is the only way, so he is training anti-sniper squads to shoot from helicopters. Says Rizzo of the coming summer, "We may have a riot but it will be the shortest in history."

Bridgeport's 404 policemen (10 of them Negro) have helmets, riot batons, Chemical Mace. "We increased our communications through three radio wave lengths," Supt. Walsh says, "Walkie talkies we have . . . gas masks, tear gas." His technique calls for speedy arrest of looters. "The average policeman is not the type to shoot anybody anyway. If the police are present and properly deployed these things will not happen. You'll find many of these people are teenagers not out because of a civil rights protest but because the opportunity is there to loot and commit acts of vandalism."

Hartford Chief John J. Kerrigan, who has had to wrestle with three potentially explosive disturbances, two last summer and one after the King death, assesses that his city "is much further ahead than it was this time last year . . . There has been a lot of community effort in housing and employment." Chief Kerrigan has bought no new armored cars, liquid "banana peel" or any other of the sophisticated riot arsenal. "In a city of this size it would only complicate things."

But the calm, slow-talking Hartford chief is nonetheless worried about a 10 percent vacancy rate in his department (360 against a needed strength of 400) and says that "it can't be the money . . . our new pay plan is the best in the state."

Waterbury Superintendent Joseph Guilfoile surveying the scene from his dark, Victorian cubicle, doesn't have Chief Kerrigan's worry. He has enough men and equipment, and feels that his Waterbury constituency will keep its cool.

New Haven's Chief James F. Ahern, whose force has without bloodshed arrested more people in the last few years' civil disturbances than any other place in the U.S. except Newark, Watts, Detroit, Harlem and Selma, isn't anticipating trouble. Without beefing up manpower or arsenal, Chief Ahern counts on heavy and constant patrols, plus quick arrests, to dampen violence and avoid gunplay. More than "a flimsy reason" is required to get his okeh on a hand gun permit.

Since last year the major New Haven step-up has been between police and neighborhood groups, including the militant organizations. Neighborhood police stations in two predominantly Negro areas, coupled with "neighborhood police aides"—youths who cannot become policemen but do certain police-related jobs—have made New Haven police more peacefully visible and informal.

Among none of the big city chiefs is there an advocate of Chicago Mayor Richard J. Daley's shoot-the-looter policy, and very little talk about shooting at all. In the state's capital, for instance, there have been many Molotov cocktails tossed during the three civil disturbances, but not a shot fired.

Since Dr. King's murder, however, police across the state record a sharp rise in retail sales of personal weapons, particularly to women. A recent national poll indicates that just over half the American homes own a gun. Gun owners, asked if they would use their weapon to shoot another in case of a riot, said yes by 51%, a rise from 29% since last August.

An article headed "Pocket Pistol Potency" in a current national gun magazinne leads off this quaint colloquial way: "If you keep a bureau gun to keep belligerents away from the old homestead, if crime in the streets has caused you to stash a bit of ballast in your wife's handbag, if you're a cop off duty or an undercover sleuth making like a bad guy, it's a good bet that you've got a pocket pistol."

Police across the state caution against hasty conclusions that gun sale increases are tied directly to civil restiveness. In Bridgeport, where some 2,000 guns have been bought the past 18 months, the sales are up 50 percent, but most of the buyers are members of gun clubs—and women. Superintendent Walsh doesn't see any harm in a woman having a pistol "if it gives her ease of mind" but adds that a woman with a gun in her home should "know how to use it safely."[3]

Increases in gun sales, even though many are for sporting uses, have triggered new concern by police and new efforts to curb them.

In its marvelously microscopic style, *The New Yorker's* April 20 account of the futile legislative efforts to get federal control over firearms sale, or even ban mail-order shipments, ran through 100 pages. A short version is its first two sentences: "Nothing renders Congress less capable of action than the need for it. The more urgent the need, the more controversy it creates, the greater is the danger for any member who takes a stand."

Since only seven states (including Connecticut) now require a permit to buy a pistol, and only one prohibits their sale, and since no state requires a permit to buy a rifle or shotgun, the paranoid reaction to any sort of regulation is understandable.[3] Understandable despite the fact that 71 percent of the people asked in a national poll said they would like the sale of guns strictly controlled.

[3] Pistol permits can be held up by local police chiefs, many of whom are trying to slow down the hand-gun sales to people whose purposes don't seem to be sporting. Bridgeport has had a 100% increase in requests for permits to carry pistols since the first of the year. Applicants can appeal to the State Pistol Permit Board which has recently overruled the Waterbury chief twice. Present federal statutes prohibit only shipment of guns or ammunition to anybody known or reasonably believed to be a criminal or a "fugitive from justice."

In the six years since the Senate Juvenile Delinquency subcommittee documented a traffic in mail-order guns among youngsters, "Dodd" has become the worst four-letter word in the gun-toters vocabulary. Although Drew Pearson has written that Connecticut Senator Thomas Dodd "has had a disturbing, documented habit of consorting with the people he is investigating, then permitting the investigation to peter out," Pearson does concede that since his censure Senator Dodd has been more aggressively pushing the gun control bills.

The National Rifle Association, principal vehicle of the target-shooting fraternly, has returned the fire. At its meeting in Boston last month, the new president of the 960,000 member NRA labelled those who refuse to support the NRA's "drive for sensible and practical gun legislation"[4] as "gun bearers for the (Ted) Kennedys and the Dodds."

But the shot which six days before had taken the life of Martin Luther King may have put some life in the Dodd bill, watered down as it has gotten to be (exempting rifles and shot-guns and providing for state option). By a slim 9–7 the Senate Judiciary Committee has voted to let the Dodd gun bill go to the Senate floor for debate, for the first time in 30 years. There it will meet bitter opposition, particularly from Western and Southern law-makers. U.S. Rep. John D. Dingell, Michigan Democrat, told the Boston meeting of NRA that highly restrictive gun control laws do not reduce crime and attacked the "gross misstatement, false statistics and deceitful tactics used to push gun control measures . . ."

NRA's new president, Harold W. Glassen of Lansing, added that "the availability of firearms would seem to have a deterrent effect on crime—rather than the prohibition." If he was talking in any part about the deterrent effect of armed vigilantes who have appeared to help quell riots, Connecticut police say uniformly and firmly, "No thanks."

They echo Col. Rex Applegate, whom *Esquire* calls the "von Clausewitz of today's war in the streets," when he points out that the need for gas and other exotic devices make anti-riot techniques "highly specialized skills." Bridgeport's Superintendent Walsh vows he'd never use a vigilante or any other kind of citizen group. "It gets out of control. If we can't handle it we can call in the State Police and the National Guard." About vigilante citizens groups, the Guard's Col. Leonard adds, "We have no requirements for them in our plans, and they would have no standing as far as we're concerned. We certainly wouldn't be interested."

The rise in gun sales is of more than political consequences to Connecticut. Whatever its purpose—sporting, military, protective or even criminal—any American-made gun has a 90 percent chance of coming from within a 65-mile circle around Connecticut's capital. That has been the case for a century and a half. From the times when you had to hunt to eat meat, Yankee craftsmanship concentrated much of its care on making guns, and a good deal of the modern interchangeable parts production technique owes its inspiration to precision gun manufacturing.

Between the colonial and civil wars there were 25 arms manufacturers and 50 gunsmiths in tiny Connecticut. Though today there are fewer than 30 ordnance manufacturers in Connecticut (nine making guns) they turn out a whopping $200,000,000 worth of shipments. In February of this year there were 13,340 Connecticut workers making ordnance at an average $140.61 a week. There were 10,300 in 1967 and only 8,631 in 1966.

Though not the first armsmaker, Hartford's native Samuel Colt, more than any other, put Connecticut on the world gun map. When

[4] One NRA idea: Ship guns by registered mail, delivered only to the addressee, and the receipt recorded with the police.

he was a seven-year-old problem, somebody presented him with a flint-lock horse-pistol that whetted his appetite. A few years later he was kicked out of school for concocting and firing powder. He hated it at 16 when his father, in some despair, shipped him off to sea, but managed to carve in wood the model of the first automatic repeating pistol.

At 22 he founded his fabulous company, soon was travelling the world to sell guns for the world's wars—if possible, to both sides. His name became a synonym for firearms and his industrial pace-setting plants turned out 319,000 revolvers in the first three years of the Civil War. Colt died in 1862 at 48. Now widely diversified, Colt Industries is a $300,000,000 a year giant which has already produced 730,000 of the light, efficient and much-argued M16 army rifles, most of them now being carried in Southeast Asia. Colt will be turning them out at 50,000 a month by June next year.

Many other ordnance names, with their home base in Connecticut, are internationally known. The second big name, Winchester Repeaing Arms Co., was established just before the Civil War, in World War I turned out 600,000 rifles.

On his wall in the center of "gun country," amidst an extraordinary display of guns used in Connecticut crimes, Hartford's Det. Sgt. Walter S. Perkins, has a sign: "The only Courage possessed by most Criminals."

But to be fair, the gun evokes a variety of other images among millions of Americans whose "right to bear arms" often boggles foreign visitors trying to reconcile America's lawlessness with its freedom. To the 66,680 men and women who carry a Connecticut hunting license the image is of autumn woods and wary game. These hunters are stirred by the opening salute in Maj. Gen. J. S. Hatcher's introduction to "The Rifle in America." It reads: "To every redblooded American the rifle is a weapon with a deep and romantic appeal."

To 17-year-old Candy Mottram and her friends on the Stratford Police Athletic League girls' rifle team, as well as to the other 3,200 members of the Connecticut State Rifle and Revolver Association, the gun is a friendly piece of precision sporting equipment, used only with appropriate gear under the most elaborate safety regulations. To half of them it would never occur to use a gun even for hunting animals.

When 500 of them gather at Wallingford's 54-acre Blue Trail Range, operated by former gun-sight maker Charles Lyman, as they did for the first match of the big bore league late last month, riots are not even in their glossary. Their NRA indoctrination guides their conviction that "only people, not guns, shoot people," and they seem genuinely perplexed why their friend Eddie May could be so misinformed as to say that if he were in the Senate (for which he hopes to run this fall) he'd vote for Tom Dodd's bill.

These sportsmen, from every conceivable walk and circumstance (Stamford's artistic-tempered Virginia Williams, one of the world's crack shots, is a nurse), spend $100 to $500 on their sleek guns, often refine them with palm rests and hook butt-plates, always care for them like jewels. They recruit others annually to their passion, and some like Ronald Moley, a Stanley Works production planner in New Britain and a member of the Bell City Rifle Club, have been at it since their dads took them along target shooting at 12.[5] At 29, Ron Moley is a mild, single, devotee who eats and sleeps guns, has put 25 out of 25 shots into a seven inch bulls-eye at the 200-yard Blue Trail Range.

There is no way for anybody to do any better than that, but Ron Moley is humble about it. He and the gun just "had a good day," which consists of weather, gun conditioning and how Ron feels when he lies down for the prone firing. If the first five practice shots go well (they aren't counted) the rest may be in there—prone, kneeling and standing. He isn't thinking about the Dodd bill. All he hears—and that muted through the heavy plastic ear muffs that protect his tympanic membrane—is the battlefield sound barrage.

Not far from where Ron Moley was firing a whole different group of sportsmen fire away at Blue Trail targets with hand guns (under 12" barrel). If they got their pistols in Connecticut they had to file an application with state and local police, wait seven days while their police record, if any, is checked. By the day they come to the range, wives, children, the lot. They visit and compare notes over a hot dog, much in the manner of an outing at a golf driving range.

Most all are members of the state association, with headquarters in Glenbrook, where Manufacturer Ed Condon is the president. With rifles, shot-guns and pistols they travel from parts of New Jersey, New York, Rhode Island and all over Connecticut, for the state association is one of the nation's biggest. At indoor police ranges, scores of private clubs they spend the winter waiting for the outdoor days that culminate in 20 competition matches from April through October.

For them it is indeed a sport—demanding and rewarding. No par golfer gets more kick out of his score than Ron Moley did out of his perfect 250 at Blue Trail.

Meanwhile, back at riot headquarters . . .

[5] Many Connecticut towns have ordinances against possession or use of air-guns and pellet rifles. "These can be deadly and dangerous weapons," says Capt. Pethick of the State Police. "Someone was killed by one and people lose eyes all the time."

OUR 25 YEARS IN VIETNAM

Mr. McGEE. Mr. President, our 25 years in Vietnam were well chronicled on Sunday by Chalmers Roberts, of the Washington Post. Mr. Roberts has gone back to 1943 to trace the U.S. involvement in Indochina to the present stage of simultaneous fighting and negotiation—a stage he says may be the final one. But that is not certain, Roberts adds. What is certain is that Vietnam will have, for years to come, a major effect on American thinking, and that the final outcome in Vietnam will have a major effect, as well, on the shape of the world we will face for the next 25 years and more.

It is well that we recall now the past conditions and developments which led to our involvement in the Vietnam war. Mr. Roberts has, for the most part, presented them very well in what is, by newspaper standards, a lengthy article. It is, in fact, quite brief.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR 25 YEARS IN VIETNAM

(By Chalmers M. Roberts)

Like the moth for the flame, the United States has found some irresistible attraction in a faraway land long known as French Indochina and now all too familiar as Vietnam.

This extraordinary attraction has existed for a full quarter of a century. The United States surely has been singed but its ultimate fate in that small land is not yet clear.

The story can be divided into six acts, beginning in 1943, with the latest act now being played both at the Paris conference table and on the Vietnam battlefield. Whether the sixth is the last act no man can say with certainty, but that seems the probability.

Most Americans were totally unaware of their Government's involvement on their behalf in much that has gone on. Some awoke during the second act, more began to see what was happening by the fourth. But not until the last two acts has the majority turned its eyes to that corner of Southeast Asia. Yet, in retrospect, there has been a pattern, if not a plot, in all that has happened.

Here, in capsule form, is the story of the six acts of Vietnam.

I. ROOSEVELT VERSUS DE GAULLE

Three days before he flew off to Paris this May, Ambassador W. Averell Harriman remarked in a New York speech that "I recall hearing President Roosevelt on more than one occasion state categorically that he had no intention of permitting the French to return to Indochina."

Harriman's remark is well documented by the official record. Equally well documented is the determination of Charles de Gaulle to see France return to Indochina, to which the French had gone in 1858 to create, in time, a colony comprising what today is North Vietnam, South Vietnam, Laos and Cambodia.

When France fell to Hitler, the white man's days in Indochina were numbered. The Vichy regime granted expansionist Japan a "pre-eminent position" in the Far East. In late 1940, Japanese troops arrived from then occupied China.

One of the French forts attacked by the Japanese was at a place known as Dong-Dang. A widely quoted American newspaper editorial of the time was captioned: "Who wants to die for dear old Dong-Dang?" The answer then in still isolationist American was clear: no one.

After Pearl Harbor, Indochina was far behind enemy lines. Not until victory over Japan began to loom did President Roosevelt begin to think about the future of the French colony. By 1943 he was making, in private, the remarks to which Harriman referred.

F. D. R.'s trusteeship idea

President Roosevelt spoke to Britain's Anthony Eden in 1943 of a future trusteeship for the colony. He told Joseph Stalin at Tehran that "after 100 years of French rule the inhabitants were worse off than they had been before . . ." Winston Churchill objected but Stalin agreed, saying that he "did not propose to have the Allies shed blood to restore Indochina, for example, to old French colonial rule . . ."

On Jan. 24, 1944, FDR wrote Secretary of State Cordell Hull that he had told the British Ambassador that "Indochina should not go back to France but that it should be administered by an international trusteeship." He added that "France has milked it for one hundred years. The people of Indochina are entitled to something better than that."

Indochina, however, was but a minute problem for the wartime President. He did little more than to put obstacles in the way of small French forces trying to make their way to the Far East via the French enclaves in India. At FDR's request, Vice President Henry Wallace told Chiang Kai-shek that FDR was offering him all of Indochina as an outright grant. In a display of wisdom, Chiang turned down the offer, saying rightly that the Indochinese were "not Chinese. They would not assimilate into the Chinese people."

FDR's approach may have been humanitarian but it certainly was cavalier and showed his scant knowledge of Southeast Asia. The President died in April, 1945, with Indochina still under Japanese control.

De Gaulle's vow

Charles de Gaulle, today the host for the Paris talks, was the wartime leader of the

Free French, a role which brought him into bitter disagreements with FDR and the United States on many issues, including Indochina.

De Gaulle wrote in his memoirs that during the war Indochina "seemed like a great ship out of control," adding: "As I saw her move away into the mist, I swore to myself that I would one day bring her in."

By 1945, with France cleared of the Nazis, de Gaulle, "aware of the hostility of the Allies—particularly the Americans—in regard to our Far Eastern position," resolved that "French blood shed on the soil of Indochina would constitute an impressive claim" to regain the colony.

FDR's death eased de Gaulle's problem. During a Washington visit in August, 1945, President Truman told him that the American Government "offers no opposition to the return of the French army and authority in Indochina."

The atomic bomb had been dropped in Japan just before de Gaulle's trip to Washington. He recorded his "bitter visions" of the bomb's meaning but quickly added that the collapse of Japan removed "the American veto which had kept us out of the Pacific. Indochina from that day became accessible to us once again."

At the wartime Tehran and Potsdam conferences, it had been agreed that, after the fighting ended, Vietnam would be occupied by Chinese Nationalist troops down to the 16th parallel, with British Commonwealth forces taking over the southern half of the peninsula.

That was in fact done for a while. And as the French returned to reassert authority, they found that Ho Chi Minh already was leading an insurrection. He seized Hanoi before the French could get there, proclaiming the Democratic Republic of Vietnam.

De Gaulle worked for a French Union, with some autonomy for Vietnam, Laos and Cambodia and he recorded that "I intended to go to Indochina myself to settle matters . . ." He never did. In the end, negotiations between Ho and Paris were aborted by French diehards, fighting ensued and France regained control or her colony. De Gaulle retired from office in January, 1946, not to return until 1958.

The first act in Indochina was over. FDR failed in his aim. A European colony was reestablished in Asia but the auguries for its success were not good. Nationalism was the new power, with Communist Ho exploiting it.

II. HO VERSUS FRANCE PLUS EISENHOWER AND DULLES

Five months after the Japanese collapse, Bao Dai, emperor of Vietnam, wrote de Gaulle telling him to "abandon any thought" of reasserting French sovereignty, adding that if he attempted to do so "every village would become a core of resistance." But neither de Gaulle nor his successors saw the truth of that advice.

Ho's efforts to reach an accommodation with Paris was defeated by French officers in control in Indochina and by the French Communist Party in France, aided by the Soviet Union. The Communists played Paris' game against Ho in the hope that France itself would go Communist, sweeping Indochina into the Communist world without resort to war.

When Ho sent an emissary to Paris, Maurice Thorez, the French Communist, told him that he did not intend in any way "to be considered the eventual liquidator of the French positions in Indochina." French Communists did not block the Indochina war budgets in the Assembly.

But France did not go Communist. And the Indochina war escalated as Ho fought on to the climactic battle at Dienbienphu in 1954.

By December, 1950, the French were sounding alarm in Washington. At that moment, the United States was heavily engaged in Korea against both the Communist Chinese and the North Koreans.

Under Truman, a Military Assistance Advisory Group (MAAG) arrived in Vietnam in July, 1950. But Korea had the priority and it was not until the advent of the Eisenhower Administration and the end of the Korean war that the United States became deeply involved in trying to prop up the French and save their position in Indochina, meaning essentially in what is now the two Vietnams. Why?

The United States had no economic interests in Indochina worth mentioning; its anti-colonial attitude, both governmental and public, had pressed in the postwar years for the British to give up India and for the Dutch to free Indonesia. But the pressure on France was limited, halting, less than effective for too long.

Answer lies in Europe

The answer lies in American policy in Europe. What Washington did to aid Paris in Indochina was a function of its European policy and a derogation of its basic anti-colonial thrust in Asia. If Paris then had been as stable as London or The Hague, there probably would have been no aid and Ho would have triumphed. Retrospectively, it appears that in larger world terms it would have made little or no difference to the United States. Washington would have been satisfied with being an offshore Pacific power, as was the general intention even to the point of withdrawing troops from Korea in 1949.

But Paris, and France, were not stable. American policy centered on rebuilding Western Europe economically with Marshall Plan aid and in creating a viable defense community through NATO. These were the years when the Communist coup succeeded in Czechoslovakia and Stalin tried to force the Western powers out of Berlin by a blockade.

Stalin died six weeks after Gen. Eisenhower's inauguration as President, setting off what was to be polycentrism in the Communist world. But that was not to be apparent for some years. Meanwhile the Korean war had alarmed the United States. When it was over, the fear was that the Communists' next thrust would come in support of Ho in Vietnam.

By late 1953, with American dollar and arms aid to the French mounting rapidly in Indochina, a Senator on a study mission to Indochina concluded his report in words that expressed the temper of the times:

"The need to stay with it is clear because the issue for us is not Indochina alone. Nor is it just Asia. The issue in this war so many people would like to forget is the continued freedom of the non-Communist world, the containment of Communist aggression, and the welfare and security of our country."

The author of those words was Sen. Mike Mansfield (D-Mont.).

Berlin Conference, 1954

In the rubble of Berlin in early 1954, the United States, the Soviet Union, France and Britain held their first postwar conference, ostensibly to discuss the future of divided Germany and of then partially divided Austria. Nothing was accomplished on either issue.

But the French Foreign Minister, Georges Bidault, pressed the American Secretary of State, John Foster Dulles, to agree to what was to become the Geneva Conference on both Korea and Indochina.

"We had to have this conference," Bidault wrote in his memoirs. "France was fighting alone and was only being given financial aid. We were fighting 7000 miles away from home and the war was costly in human lives. The war came under heavy criticism in France and in the United States. Acts of treason and sabotage were committed in France."

Dulles was tugged two ways by Bidault's plea. On the one hand he desperately wanted French ratification of what then was the keystone in American policy in Europe: the creation of the European Defense Community, under which a unified armed force would be created, submerging German arms forever in a supranational command. French ratification was needed for success.

On the other hand, Dulles wanted to keep clear of Indochina, where he could easily smell failure—which to him meant the loss of territory to the Communists. Furthermore, he did not want to have anything to do, at least directly, with the Communist Chinese, although he recognized they would have to be at Geneva too. (Indeed, during the week he did subsequently spend at Geneva, Dulles sat stonily behind Chou En-lai, then Peking's foreign minister, without a word or a handshake between them.)

The American attitude toward China was so bitter at the time that Dulles felt impelled, on his return from the Berlin meeting, to say in a radio-TV report that he had dramatically held out until 60 minutes before adjournment to win Soviet Foreign Minister V. M. Molotov's acceptance of the Dulles demand "that I would not agree to meet with the Chinese Communists unless it was expressly agreed and put in writing that no United States recognition would be involved."

With this safeguard politically at home and in hopes that the French would accept the European Defense Community, Dulles agreed to the Geneva Conference.

The falling domino

Twenty-three days after the Berlin Conference organized the Geneva meeting, Ho's forces made their first major attack on the French fortress of Dienbienphu in western North Vietnam near the border of Laos. Ho had begun his "fight and negotiate" tactic now being repeated while today's talks go on in Paris.

Eisenhower's view of the importance of keeping Indochina out of Communist hands was essentially that expressed by Sen. Mansfield. The President wrote in his memoirs that "if Indochina fell, not only Thailand but Burma and Malaya would be threatened, with added risks to East Pakistan and South Asia as well as to all Indonesia."

It was Eisenhower who publicized what he called "the falling domino principle." He also was concerned, as he said at the time and later wrote in his memoirs, about the possible "loss of valuable deposits of tin and prodigious supplies of rubber and rice" in Southeast Asia, comments to which the North Vietnamese now in Paris have called attention in an effort to sustain a Marxist view of American actions.

Kennedy-Johnson views

American leaders were divided in 1954 on what to do about Indochina. Sen. John F. Kennedy castigated the French for not giving more ground to the non-Communist Vietnamese. Sen. Lyndon B. Johnson declared that he was "against sending American GIs into the mud and muck of Indochina on a blood-letting spree to perpetuate colonialism and white man's exploitation in Asia."

But neither was yet in power in the White House; Eisenhower was and to him came proposals for military aid to the French. From Berlin in January and February to Geneva beginning in May, "the ever-present, persistent, gnawing possibility was that of employing our ground forces in Indochina" as Eisenhower recorded it.

The crisis in Washington came in April as Ho's general, Vo Nguyen Giap, tightened his stranglehold on Dienbienphu while the world watched. In March, the French Chief of Staff had visited Washington to say that unless the United States intervened, Indochina would be lost.

On Saturday, April 3, Dulles met secretly with eight congressional leaders and told them the President wanted a joint resolution by Congress to permit him to use air and naval power in Indochina. If Indochina fell, said Dulles, the United States might be forced back to Hawaii as in World War II.

Adm. Arthur W. Radford, chairman of the Joint Chiefs of Staff, proposed using planes from two American carriers then in the South China Sea, plus land-based aircraft from the Philippines, for a single strike to save Dienbienphu. He conceded that the three other members of the Joint Chiefs disagreed with him.

Of the legislators in that room, only two are still in Congress; Sen. Richard B. Russell (D-Ga.) and Rep. John W. McCormack (D-Mass.), now the House Speaker. The other man still in power was Sen. Lyndon B. Johnson.

L. B. J.'s crucial question

It was Sen. Johnson who asked the critical question about allies in such a venture. He said he knew that the then Senate majority leader, William F. Knowland, had been saying publicly that in the Korean War up to 90 per cent of the men and the money come from the United States. The United States had become sold on the idea that that was bad. Hence in any operation in Inchochina, we ought to know first who would put up the men. Sen. Johnson asked Dulles whether he had consulted nations which might be allied in any intervention. Dulles said he had not. In the end, all eight members of Congress agreed that Dulles had better first go shopping for allies.

So Dulles did. And Gen. Giap's men moved closer and closer into the fortress at Dienbienphu. Within a week Dulles talked to diplomatic representatives in Washington of Britain, France, Australia, New Zealand, the Philippines, Thailand and the then three Associated States of Indochina: Vietnam, Laos and Cambodia. He ran into a monumental rock of opposition from the British.

The British attitude, given that of the congressional leaders, forced a shelving of immediate intervention. Instead, Dulles began planning the creation of a "united front" for "united action" in what was later to emerge as SEATO, the Southeast Asia Treaty Organization.

While Dulles was doing this, Vice President Richard M. Nixon, in an off-the-record speech that was quickly divulged, declared in Washington on April 16 that ". . . if to avoid further Communist expansion in Asia and Indochina, we must take the risk now by putting our boys in, I think the Executive has to take the politically unpopular decision and do it."

While Eisenhower was trying to keep the Nation calm, Nixon's remarks caused alarm. A rider to a House appropriations bill was introduced requiring prior congressional approval before the President could send toops to Indochina or anywhere else. Eisenhower was prepared to veto the bill but the rider failed to pass.

Unattainable or unacceptable

In answering a press conference question, the President described his 1954 dilemma much as Lyndon Johnson might describe his 1968 dilemma. Said Eisenhower: "You are steering a course between two extremes, one of which, I would say, would be unattainable, and the other unacceptable."

The "unattainable," he said, was a completely satisfactory agreement with the Communists. The "unacceptable" was "to see the whole anti-Communist defense of that area crumble and disappear."

In Paris on April 23, three days before the Geneva Conference opened (initially on the Korean issue), Bidault pleaded with Dulles for a massive air attack, using the American carriers then stationed in the Tonkin Gulf as their successors are today. Bidault has written that he pointed out to Dulles "that he had told me and the rest of the world that the U.S. would not tolerate the advance of communism in Southeast Asia; if he wanted, he could reconcile theory with practice by helping us in Dienbienphu."

Bidault also claimed in his memoirs that Dulles asked him "if we would like the U.S. to give us two atomic bombs." This has been denied on the American side and no evidence has been presented to support Bidault's statement. Bidault wrote that his answer was that with the use of atomic bombs the garrison "would be worse off than before."

Despite last-minute efforts by Dulles and Adm. Radford, Eisenhower would not agree to intervention without allies and without congressional approval, which he never publicly asked.

Gloom at Geneva

Thus the Geneva Conference opened in a mood of deepest American gloom. Dulles disassociated himself as much as possible from what he saw as the coming disaster. Dienbienphu fell and Pierre Mendes-France became the French Premier on a promise to negotiate peace in Geneva within a month. The Anglo-American-French relationship was in a shambles.

The shooting ended in Indochina on July 21, 1954, the day after Mendes-France's self-proclaimed deadline, but from most of the French other than embittered military there were only cheers for him.

The first Indochina war, which had lasted 7½ years, was over but in such a way as to invite the second Indochina war and, most importantly, to invite American intervention.

III. DULLES AND DIEM VERSUS HO CHI MINH

Geneva ended with a cease-fire agreement between the French and the Communists and a Final Declaration of all the conferees. The former ended the fighting and provided for a political regroupment of opposing forces; the latter sketched out the political future, declaring that the agreed "military demarcation line" at the 17th parallel, which now separates North from South, was to be considered "provisional and should not in any way be interpreted as constituting a political or territorial boundary."

The Declaration also said that consultations should be held between the authorities of "the two zones" beginning on July 20, 1955, leading to "general elections" which "shall be held in July, 1956. . ."

The elections, of course, have never been held, a fact that has aroused bitter dispute as to who was to blame. What did happen was that John Foster Dulles decided to make what became South Vietnam a viable state on its own.

Saigon disassociates self

The Saigon government, of which Ngo Dinh Diem became the head two weeks before the conclusion at Geneva, disassociated itself from the agreements. Diem's representative in Geneva who did so was Tran Van Do, until recently the Foreign Minister in the current Saigon regime.

Despite Soviet pressure to back the agreements, the United States limited itself to a declaration that supported unity of Vietnam through "free elections" under United Nations supervision to assure their fairness and a statement that it would view any renewal of aggression in violation of the agreements "with grave concern and as seriously threatening international peace and security."

The common expectation in Geneva was that the results would have the effect of getting the French out and preventing the Americans from intervening. It was presumably on this basis that Molotov and Chou En-lai convinced Ho Chi Minh to accept less than full control of Vietnam.

Although there is no direct evidence, the two key Communist leaders must also have argued that in due course South Vietnam would easily fall into Ho's control. In recent years there have been comments from Hanoi which indicate that retrospectively, the North Vietnamese Communists believe they were sold out by the Soviets and the Chinese. Many consider this a key factor in Hanoi's evident determination not to repeat the process in any new form at the current Paris talks.

But South Vietnam did not fall as the ripe apple to Ho and the Communists. Two men worked together to prevent that: Dulles and Diem.

Something to salvage

Lt. Gen. Andrew J. Goodpaster, now on the Harriman delegation in Paris and named by President Johnson to be the number two American military leader in Vietnam after Gen. William C. Westmoreland returns home, was then the top White House military aide to Eisenhower.

In a 1966 statement for the Dulles Oral History Project at Princeton, Goodpaster recalled that after the Geneva settlement "Dulles thought that it was perhaps not quite down the drain" although, said Goodpaster, "everyone else, I think, felt that it was." Dulles "felt that there might be something in this that would be worth trying to salvage, trying to sustain."

To assess the prospects, Dulles got Eisenhower to send Gen. J. Lawton Collins, suggested by Goodpaster, to South Vietnam in late 1954. Collins recalled, also for the Oral History Project, that when he was leaving Washington Dulles said to him: "Frankly, Collins, I think our chances of saving the situation there are not more than one in ten."

But some months later, after visiting Saigon himself and hearing Collins' report after the general's return to Washington, Dulles commented that now looked more like a 50–50 chance. Added Collins: "And he was very well pleased."

Role of Diem

By now Stalin's successors in the Kremlin, and the men in Peking as well, were talking up "peaceful coexistence" between the Communist and non-Communist worlds. But Dulles remained unconvinced of any change of heart and he determined to hold the line at the 17th parallel in Vietnam as well as at the 38th parallel in Korea, the two fringes of what he considered Communist power centered in Peking and perhaps directed from Moscow.

It would take a leader in Saigon, however, to make such a holding operation work and that man was Diem. A Vietnam nationalist and a Catholic, Diem had been living in the United States since 1951, mostly at Maryknoll Seminary in Lakewood, N.J., with occassional trips to Washington to discuss Vietnam with such men as Sen. Mansfield and Rep. John F. Kennedy. He also frequently met with Francis Cardinal Spellman in New York.

Diem had wanted the post in Saigon and it had been offered to him by Emperor Bao Dai. But each time Diem demanded a total end of French control and a free hand for himself. This he finally got when he took over the government on July 7, 1954. He had, by then, powerful friends in Washington who were to sustain him in the years ahead as he fought the Communists.

Twenty-six days after the Geneva accords were signed, Eisenhower transferred aid directly to Vietnam rather than through France. But the French were unhappy with Diem and wanted someone they felt would be more amendable to protection of their economic and cultural interests in Vietnam.

Dulles balked and his associates called on Mansfield for help. The Senator stated, on returning from a Vietnam trip, that "in the event that the Diem government falls . . . the United States should consider an immediate suspension of all aid to Vietnam and the French Union forces there." The French officers in those forces were soon to leave but Diem was long to stay.

Eisenhower letter

The French reluctantly agreed to back Diem. And on Oct. 23, 1954, President Eisenhower sent a letter to Diem in response to Diem's request for aid. The President said the aid was to assist South Vietnam in "developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means." Eisenhower also expressed the hope that Diem's government would be "so responsive to the nationalist aspirations of its people, so enlightened in purpose and effective in performance, that it will be respected both at home and abroad and discourage any who might wish to impose a foreign ideology on your free people."

The letter, drafted by Kenneth Young in the State Department, is the one President Johnson has often cited to show that the current American involvement was begun by Republican President Eisenhower. Eisenhower has complained in private about this use of his letter but has never done so publicly.

By July, 1955, when the consultations for the elections in all of Vietnam were to begin under the terms of Geneva, Diem was in a strong position internally. His government has absorbed the nearly 900,000 refugees from the North, 250,000 of which has been evacuated and brought South in American naval vessels.

Diem said he was for unification and for free elections "to achieve this unity." But he was "skeptical" about holding them in the North, where "a regime of oppression" was in power. Furthermore, his government did not sign and was "not bound in any way" by the Geneva accords. Hence "nothing constructive will be done "as long as the Communists deny democratic freedoms.

The North objected, called for a renewed Geneva Conference but Moscow and Peking paid little attention. Indeed, the Soviets seemed so satisfied with the division that in 1957 they proposed admitting both Vietnams to the United Nations along with the two Koreans. But the United States opposed admission of the two Communist states.

Votes for Ho

In the wake of the first Indochina war, the probability is that, given a free election throughout all of Vietnam, Ho Chi Minh would have been the winner. That Dulles probably believed this is indicated by a comment in Eisenhower's memoirs:

"I have never talked or corresponded with a person knowledgeable in Indochinese affairs who did not agree that had elections been held as of the time of the fighting, possibly 80 per cent of the population would have voted for the Communist Ho Chi Minh as their leader rather than Chief of State Bao Dai."

Diem gained support in his own country and in the United States as well. Sen. Hubert H. Humphrey declared in May, 1955, when Bao Dai tried unsuccessfully to put a rein on Diem, that "Premier Diem is the best hope that we have in South Vietnam. He deserves and must have the wholehearted support of the American Government . . ."

To Washington it looked as though Dulles was right and that economic aid and some military training help to Diem would indeed produce a viable state and result in a stable line at the 17th parallel.

Furthermore, Dulles had constructed SEATO and used it to put an umbrella of international support over South Vietnam as a "protocol state." Along with Dulles, two Senators signed on behalf of the United States. One of them was Mansfield.

U.S. problems elsewhere

The United States had greater problems elsewhere in the final Eisenhower years, notably with Nikita Khrushchev over the U–2 and the Soviet Sputnik and ICBM developments. Few other than those directly concerned paid attention to Vietnam; it all seemed to be going well.

Ho Chi Minh seemed absorbed in rebuilding the North. Despite an abortive coup, Diem seemed well in control in the South and there was talk of a "miracle" of postwar development. And there were no American battle casualties.

Yet the United States was, in fact, sliding into what was to become the second Indochina war. The U.S. understood the Communists' aim but of their plans and strategy it was woefully ignorant.

IV. KENNEDY'S INTERVENTION

The 1954 division of Vietnam was geographic but the regroupment of forces after Geneva was political. Not only did about 900,000 come South but from 90,000 to about 150,000 Communists troops including their families went North, many of them on Polish and Soviet ships.

Most importantly, as Bernard Fall has written, a small group of Ho's elite guerrillas "quietly buried its well-greased weapons, hid its portable radio transmitters and simply returned for the time being to the humdrum tasks of sowing and harvesting rice."

The relative calm in the South was short-lived. By the end of 1958, Vietcong activity had begun to stir in the South and security in the countryside became a serious problem. By 1959, the North was recuperating from the war and it was evident that unification would not come through elections. Diem grew oppressive in the face of opposition and attempted coups. It was time for the Communists to act.

Infiltration in 1959

According to an American appraisal (released in May, 1968) the Lao Dong (Communist) Party in the North decided in May, 1959, or even earlier, that the time had come "to push the armed struggle against the enemy," a sentence U.S. officials found in a captured document. Furthermore, at that time, according to the American appraisal, the "Southern part of the Communist apparatus" had "become restive" and some elements were taking action on their own initiative.

Border crossing teams were created and infiltration began by mid-1959, both across the Demilitarized Zone separating the two Vietnams and by way of Laos. Southerners who had gone North and been formed into units were now sent back. Those who had remained in the South dug up buried weapons and appeared in the form of the Vietcong.

The struggle in the South against Diem was formalized at the end of 1960 and the beginning of 1961. On Sept. 10, 1960, the Lao Dong Party adopted a resolution declaring that one of its tasks was "to liberate South Vietnam from the ruling yoke of the U.S. imperialists and their henchmen . . ." And on Jan. 29, 1961, Hanoi announced the establishment of the National Liberation Front, formed the previous December as the political arm of the insurgent Vietcong in the South.

In Kennedy's hands

All this had occurred in the final phase of the Eisenhower Administration but it was the new President, John F. Kennedy, who had to deal with it. Much that is known about Communist plans and movements, however, was unknown then and the Kennedy-Eisenhower discussion about the world's problems on the days before the Kennedy inauguration did not touch on Vietnam. There was, however, considerable discussion of neighboring Laos, which the outgoing President considered so much the key to Southeast Asia that he said he would favor unilateral American intervention "as a last desperate hope" to deny it to the Communists.

Laos was indeed Kennedy's first critical problem in the area and he came close to intervention. In the end, at the Vienna meeting in 1961 with Nikita Khrushchev and in the subsequent Geneva Conference on Laos in 1962, Kennedy was able to put Laos aside as the adjunct to Vietnam that it clearly has been.

But shunting Laos aside did nothing about Vietnam itself. Kennedy had been struck by a Khrushchev speech about "wars of national liberation" and from this was to come great emphasis on counterinsurgency, including the rise of the Green Berets.

Grievances in south

That there were just grievances in the South against the Diem regime is beyond dispute. Critics of American policy contend, as one book puts it, that the insurrection against Diem was "Southern rooted" and that "it arose at Southern initiative in response to Southern demands." The American Government view is that, despite the grievances, the insurrection was effectively Northern inspired and directed, though using Southerners to carry it out for the first years.

The civil war view was rejected by the Kennedy Administration. By November, 1961, the new Secretary of State, Dean Rusk, was speaking of "the determined and ruthless campaign of propaganda, infiltration and subversion by the Communist regime in North Vietnam to destroy the Republic of Vietnam" in the South.

Kennedy had qualms about further involvement. Still, the weakness he had shown in the Bay of Pigs debacle in Cuba, many now feel, led him to fear another seeming retreat from communism and thus forced him to up the American ante in Vietnam.

In late 1961, two emissaries he had sent to Vietnam, Gen. Maxwell Taylor and Walt W. Rostow, came back with a recommendation for sending an American military task force of perhaps 10,000 men for self-defense and perimeter security and, if the South Vietnamese were hard pressed, to act as an emergency reserve.

That report, as much as anything, led the new President to take the irreversible steps into the second Indochina, or Vietnam, war. But Kennedy stopped short of the Rostow argument for a contingency plan of retaliation against the North graduated to match the intensity of Hanoi's support of the Vietcong, as Arthur Schlesinger Jr. has described it.

Johnson's tour of area

In the Kennedy era, the Americans were in Vietnam as advisers, about 16,000 of them by the time of the President's assassination. The first American soldier was killed on Dec. 22, 1961, and by the time of Kennedy's death about 150 Americans had died in Vietnam from hostile action and other reasons.

Vice President Johnson visited Vietnam in May, 1961, and proclaimed Diem the Winston Churchill of the area, although he had some private criticisms. On his return he told Kennedy that "we must decide whether to help these countries to the best of our ability or throw in the towel in the area and pull back our defenses to San Francisco and 'Fortress America' concept." He recommended "a major effort" to help the area, citing as critical the American word to live up to its treaties and stand by its friends.

The Taylor-Rostow mission backed the Vice Presidential view in large part. Kennedy at the time was trying to find new agreements with the Soviets but Moscow seemed in a truculent mood. The President knew that the Communist world of Stalin's day was finished; still, he worried lest an American retreat in Asia upset the world power balance.

So more military advisers were sent to Vietnam, Diem was fully backed and the United States became inextricably involved in the Second Indochina War.

The Vietcong terror campaign mounted but Defense Secretary Robert S. McNamara declared on his 1962 visit that "every quantitative measurement we have shows that we're winning this war" and Rusk said the

next March that the struggle was "turning an important corner."

How do we get out?

By fall, however, the innocence and self-delusion had been somewhat shattered after Diem's attack on the Buddhists. The President had evidenced his doubts in May, 1963, during a visit to the United States by Canadian Prime Minister Lester Pearson.

As Pearson told it in April, 1968, after leaving office, the President asked his advice about Vietnam. Pearson said the United States should "get out." The President replied, "That's a stupid answer. Everybody knows that. The question is: How do we get out?"

By this time the shape of the Communist world had changed massively from what it had been when Dulles decided in 1954 to pick up the pieces after the Geneva Conference. Ho Chi Minh remained a Communist but by 1963 it was apparent he was no simple tool of Moscow or Peking, or both, but acting largely on his own. Yet Kennedy, who saw the polycentrism of communism, could not escape Vietnam.

His last act was to help push Diem from office, in part by public criticism of his relationship with his notorious brother and sister-in-law, Ngo Dinh Nhu and Mme. Nhu. In October, the generals struck and Diem and Nhu were murdered, setting off a period of political instability in which a dozen governments were to come and go.

It is their war

Kennedy had said a month earlier that "in the final analysis, it is their war. They are the ones who have to win it or lose it . . . All we can do is help, and we are making it very clear. But I don't agree with those who say we should withdraw. That would be a great mistake." Earlier, the President had said that he subscribed to Eisenhower's "domino" theory on the effect of the loss to the Communists of Vietnam.

Kennedy had the tiger by the tail and did not know how to let him go. There has been much speculation on what he might have done had he not been assassinated on Nov. 22, 1963, but much of it has been self-serving and all of it fruitless.

The young President's legacy was 16,000 American troops in Vietnam, some in actual combat though not formally so, a continuing American commitment and no plan of escape. Like Eisenhower, he had underestimated the enemy.

V. JOHNSON'S ESCALATION

When Lyndon Johnson moved into the White House, he remarked, as he told it later, that the United States was involved in only one war and "let's win it." And he had said, Tom Wicker has reported, that "I am not going to be the President who saw Southeast Asia go the way China went."

Like Kennedy, Johnson had accepted Eisenhower's domino theory. He saw the war in Cold War terms, although he was to come to appreciate how much the Communist world had changed since Stalin. Like Kennedy, he saw Vietnam in terms of the world power balance. And like both his predecessors, he underestimated the enemy.

Johnson inherited Kennedy's key men: Rusk, McNamara, McGeorge Bundy, Rostow, Gen. Taylor and the Joint Chiefs of Staff. As Kennedy had accepted advice from the elders that led to the Bay of Pigs, so Jonhson accepted advice from the Kennedy holdovers.

The advisers were full of optimism and plans and they had their way as the new President concentrated on his domestic program and the coming election.

Less than two months before Kennedy's death, McNamara had returned from Vietnam to announce that "the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of U.S. training personnel." It was announced that 1000 Americans probably could be withdrawn by the end of 1963.

Campaign promises of 1964

In such a euphoric atmosphere, Johnson campaigned that fall against Barry Goldwater, asking voters to judge who should have the "finger on the button" of nuclear weapons. While Goldwater was talking about a "no win" policy in Vietnam, Johnson was saying that "we don't want to get involved" with China "and get tied down to a land war in Asia."

Johnson promised to be "very cautious and very careful." He declared that "I have not thought that we were ready for American boys to do the fighting for Asian boys," a phrase that came to haunt him. There were qualifications in many of these statements but few seemed to note them.

Once elected in a massive triumph, Johnson began to look more closely at the war. It turned out that things were a lot worse, perhaps even as bad as some of the newspaper correspondents in Saigon had been reporting.

Sen. Richard B. Russell (D-Ga.) visited the LBJ Ranch and then commented that "we either have got to get out or take some action to help the Vietnamese. They won't help themselves. We made a great mistake in going in there but I can't figure out any way to get out without scaring the rest of the world."

Gen. Taylor, asked whether the war was being lost, replied that "the main issue is very much in doubt." He advocated strikes at infiltration routes and "the training areas" in North Vietnam.

Why no negotiations?

Many Americans and others have often pondered why the Communists did not in the winter of 1964–65 propose negotiations. The South Vietnamese army was close to breaking and American intervention was still relatively minor, about 25,000 men of all services. The North had not yet been bombed, except for the single Tonkin raid, and Saigon's regimes were in a revolving-door phase.

There are two answers. Remembering their 1954 experience, the North Vietnamese leaders were determined not to accept less than victory this time. Second, they may have thought from the President's campaign remarks that he would liquidate the war after the election. But they discovered that he had no such plan.

United Nations Secretary General U Thant tried to bring the two sides together in 1964–65 in Rangoon, Burma, but the effort aborted. In retrospect, Hanoi was prepared to come only to accept an American surrender, if Johnson would offer it, but the President had no such intention. Washington knew it would be bargaining from weakness at such a meeting and breathed a sigh of relief when it failed to come about. The stage was set for the Johnson escalation.

Plans for striking the North had long been drawn up in case they should be needed. Carriers had been moved into the South China Sea. Johnson later told newsman Charles Roberts that he had decided in October, 1964, to bomb the North. Whatever the pre-planning, the first raid came on Feb. 7, 1965, in what was called retaliation for Vietcong attacks on American installations, especially at Pleiku, where Bundy saw the bloodshed.

At the moment the new Soviet Premier, Alexei Kosygin, was in Hanoi. Khrushchev had opted out the Southeast Asia but the new leadership, probably sensing a Communist victory, wanted to be in on the triumph. The Chinese later charged that Kosygin said in Hanoi that he would help the United States "to find a way out of Vietnam." Subsequent Soviet peacemaking efforts were limited by Hanoi's posture and Chinese allegations of collusion with the United States. Moscow and Peking then stepped up their aid as the major suppliers of vital arms and other material for North Vietnam.

"Retaliatory" strikes quickly became regular policy. Air attacks seemed the easier choice to prevent the collapse of the South Vietnamese. Eisenhower had agonized 11 years earlier over sending ground troops. Kennedy had sent 16,000 but tried to limit their roles. Johnson recalled Gen. Douglas MacArthur's advice to him to avoid a land war in Asia.

Hanoi adapts to strikes

The bombing did, at first, cause "great difficulties and confusion" in the North, as Hanoi's deputy chief of staff stated in a 1966 speech captured by the Americans. But, he added, "after some months we acquired experience and have strengthened our national defense forces."

The Administration denied the bombing was designed to force Hanoi to the conference table. The motives were an amalgam but that was the desirable end. It did not work. Nor did the President alter Hanoi's determination by declaring that the North was engaging in "a deeply dangerous game" by stepping up infiltration.

Because there were no quick results, pressure mounted to extend the bombing to more targets. Chairman Earle G. Wheeler of the Joint Chiefs of Staff commented in 1958 that the military differences with McNamara had been "a question of tempo. The Chiefs would have done things faster. They didn't coincide with McNamara on the conduct of the air war."

This is a view echoed by Richard Nixon in his current presidential campaign. He said last March in New Hampshire that the Johnson Administration had "wasted the Nation's military power by using it so gradually. If it had used at the start the power it is using now, the war would be over."

But Johnson, who made the decisions Wheeler ascribed to McNamara, was constrained by many factors: his recollection of Chinese intervention in Korea when American troops threatened to destroy the Communist regime in the North; advice from experts on Soviet affairs to avoid abrupt action that could force Moscow to react strongly, if only not to be outdone by Peking; the President's own tendency toward compromise between advice from hawks and doves in and out of his Administration.

The bombing failed to halt infiltration from the North or to deter the Vietcong in the South. More ground troops had to be sent.

Combat units land

The President had been granted sweeping authority, psychologically if not legally, in the August, 1964, Tonkin Gulf Resolution passed by near unanimous vote of Congress. Under Secretary of State Nicholas deB. Katzenbach was later to call the resolution "the functional equivalent" of a declaration of war and the President treated it just that way.

The bombing began in February. The Marines came ashore in March. Before sending the Army in large numbers, the President offered "unconditional discussions" in his April speech at Johns Hopkins University. But Hanoi also could read his declaration that "we will not be defeated. We will not grow tired. We will not withdraw, either openly or under the cloak of a meaningless agreement."

Each side, in fact, wanted victory. The war was non-negotiable. By June, American troop levels were on the rise. In the fall of 1965, McNamara moved 100,000 men to Vietnam in less than four months, an action of which he was to say on retiring from the Pentagon: "It was very clear we either had to do that or accept defeat."

The odds were improved but Hanoi sent more men from the North and the Vietcong recruited more in the South. The 37-day

bombing pause of December, 1965, to January, 1966, reflected doubts in Washington about the value of continued escalation as well as the growing dissent over the war. But it was fruitless; both sides still wanted victory.

In his letter to Ho Chi Minh during the pause, the President demanded an end to infiltration if he were to halt the bombing. Ho rejected the idea of reciprocity, declaring then, as his representatives at Paris continue to declare, that Hanoi would pay no price for an end to the American "aggression" against the North.

North's army enters

On the basis of captured documents, prisoner interrogations and other information, the United States this May declared that "the first complete tactical unit of the North Vietnamese Army" had left the North in October, 1964, and arrived in the South in December. By this ex-post facto accounting, three regiments had started moving south prior to the regular bombing of the North.

By the fall of 1965, when McNamara was moving 100,000 men to Vietnam, ten Northern regiments totaling 17,800 men were either in or on their way south. And by the end of the 37-day pause, five more regiments comprising another 10,000 men were moving south, again according to the recent American calculation.

Johnson continued to demand reciprocity for a halt in the bombing. But the formulation was gradually watered down. In private and then in public at San Antonio, Johnson sought some sign of reciprocity. But Hanoi would have none of it. Escalation continued on both sides, and the casualties mounted as well.

High point of optimism

The high point for the optimists came in the fall of 1967 and it was to last until January, 1968.

Gen. Westmoreland came home in November to tell the Nation that "whereas in 1965 the enemy winning, today he is certainly losing." Furthermore, said Westmoreland, with the American in-country forces now approaching half a million, "we have reached an important point where the end begins to come into view." In the final phase ahead, Westmoreland added it would be possible for American units to "begin to phase down as the Vietnamese army is modernized and develops its capacity to the fullest."

While the critics were not silent, for the moment the Administration still had the upper hand. The dissenters found a champion when Sen. Eugene McCarthy in late November announced for the Presidency. But few gave him or his anti-war platform, much of a chance. Other dissenters wished him well, but no more. Sen. Robert F. Kennedy said he was still backing the Johnson-Humphrey ticket for re-election.

VI. FIGHT AND NEGOTIATE

Exactly when Lyndon Johnson began to have the gravest doubts about the direction of the Vietnam war is not yet evident. But events were to solidify those doubts and produced the historic decision Johnson announced in his speech of March 31, 1968.

Military, political and financial problems spiraled during 1967, especially in the latter months. The climax was to come with the Communists' Tet offensive on Jan. 31, 1968.

The war in 1967 consisted of more slogging and more indecision, with heavy casualties. During the year, 11,058 Americans died in Vietnam from all causes compared to the 8,155 who had died in the previous five years of the American military involvement. American forces, with great mobility and massive firepower, could go anywhere they wished but at a cost. Yet the enemy could not be destroyed—and that was Westmoreland's objective.

The spiraling cost of the war had thrown the Federal budget out of kilter, robbed domestic programs of needed funds and created worldwide doubts about the value of the dollar.

At home dissent continued to grow. The President found it close to impossible to appear in public without facing massive demonstrations.

Within the Administration, Rusk and Rostow grimly asserted that the old policy was right and needed no changes. But McNamara was disheartened. In the spring of 1967, he proposed limiting the bombing of the North to the area south of the 20th parallel but he was overruled. He publicly deprecated the effect of the bombing. In public, McNamara remained loyal to the President but by December he was out in a bizarre combined firing-and-resignation.

At the Capitol and across the Nation, dissent reached a new high by year's end. Most importantly, the President began to put new stress on negotiations, especially on the possibility of some form of agreement between the Saigon government and the Vietcong's National Liberation Front. As he did so, the Thieu-Ky government worried that the United States would try to force it into a coalition with the Communists so the Americans could leave.

Johnson went no further in public than to urge that Saigon begin talking with "members" and "representatives" of the NLF. Back in early 1966, Sen. Robert F. Kennedy had called for admitting the Communists to "a share of power and responsibility" in Saigon but Vice President Humphrey had compared that to letting a fox in the chicken coop. The Administration line was that it would not "impose" a coalition government on South Vietnam.

If frustration was rampant in Washington, Hanoi had developed a scenario for the war. A massive "winter-spring offensive" had been decided on back in mid-1967 and there was talk of 1968 as the "decisive" year. Thousands more North Vietnamese troops headed south. The NLF issued a new political platform designed to appeal to dissenters and the war-weary. New "front" organizations were created to make it easier to desert the Thieu-Ky government, which had been elected in September along with a new Assembly.

The blow came in the dark of the night on Jan. 31, 1968. It came to be known as the Tet Offensive.

The self-proclaimed Communist objective of a "general uprising" of the population and Southern army against the Saigon government, if indeed that was the true objective of Hanoi, was a failure. But Tet was not a failure. It brought the war to the cities, put the allies on the defensive and gave Communists control of more of the countryside.

Where Tet succeeded most of all was in the United States and in the mind of the President.

In Vietnam, Gen. Westmoreland's response to Tet was more of the same; he asked for 206,000 more troops for a "maximum effort." At home, the voters of New Hampshire on March 12 showed their discontent when McCarthy came within a few votes of topping the President in the New Hampshire primary.

The President's speech

The outcome of the Administration's post-Tet review was the March 31 speech. It had two key parts.

On the military side, the President rejected Westmoreland's call for still more troops. He began to throw more of the burden on South Vietnamese forces and he halted the bombing of the North above the 20th parallel, as McNamara had recommended a year earlier. In short, he moved to stabilize and begin to de-escalate.

On the political side, Johnson gave great force to these changes by announcing he would not run for re-election, in hopes of ending the national divisiveness rooted in the unpopular war.

The North Vietnamese, who apparently had been planning some peace initiative of their own, within three days accepted the President's call for a conference even though part of their country was still being bombed. This was a considerable switch of position after years of demanding an end to all bombing "and all other acts of war" against the North before any talks.

For the first time it appeared that the war might be negotiable. Both sides had moved into a "fight and negotiate" posture and each side tried to improve its military position as the Paris talks got under way in May.

EPILOGUE

Twenty-five years of American involvement in the Indochinese peninsula during five Administrations began in a mood of political romanticism, because an adjunct of Cold War policies in Europe and turned into the high tide of American involvement around the world. There was no plot of "imperialism," no grand design. There was a consistency of motive: the right of people to run their own lives.

Different Presidents reacted differently but for the most part they reacted rather than planned in advance. There was never a formal declaration of war; much that was done was done in secrecy. America slid into a war it never wanted without adequate public debate about what it was doing and what might be the consequences.

The end is not yet in sight; Act VI is likely to be the finale but even that is not certain today. What is certain is that Vietnam for years to come will have a major effect on American thinking about its relationships with the rest of the world. And the way that is resolved will have an effect, perhaps a major effect, on the future of the world.

HUBERT H. HUMPHREY—FUTURE PRESIDENT OF OUR COUNTRY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an item which appeared in the Charleston, W. Va., Gazette-Mail of Sunday, June 2, 1968, entitled "Happy HUBERT's Politics of Joy." It is an interesting article concerning an outstanding American, the Vice President of the United States—and future President of our country—HUBERT H. HUMPHREY.

There being no objection, the item was ordered to be printed in the RECORD as follows:

HAPPY HUBERT'S POLITICS OF JOY

(By Saul Pett)

(NOTE.—HUBERT HUMPHREY, the No. 2 man in the White House, has set his sights on the Top Job. What made him decide to run for the presidency? Where does he fit into the Democratic picture? AP Special Correspondent Saul Pett traveled with Humphrey on the campaign trail for this personal look at a man who seems to be having the best time of his life running for president of the United States.)

EN ROUTE WITH HUBERT HUMPHREY.—Walking down a drab hotel corridor in Omaha, after another strenuous day of campaigning, the Vice President of the United States suddenly clapped his hands and sang out, to no one in particular:

"I feel good! Yes, sir, I feel good! I haven't felt this good in years!"

What he felt good about, Hubert Humphrey explained later, was that he was finally told, after years of being in business with his father, that soon he would be running the firm.

He had given up hope of having a crack at it, but now he does, a real solid shot. And nobody could be happier than Hubert Humphrey, freed from the parental nest, now in full wing and flying like a songbird in the race to become President of the United States.

"My goodness, it's good to see you!" he exclaimed to an airport crowd, large or small, ecstatic or dead. And arms akimbo, high freckled dome gleaming, blue eyes popping with light even on gray days, he invites them to share with him the "politics of joy," to soar with him in what John Adams described as "the spirit of public happiness . . . the joy of American citizenship" involved in discussing and participating in public events.

"It's exciting to be an American: . . . Do I love to come here! . . . It's fun to be a Democrat; on our worst days we have more fun than Republicans! . . . America is not sick! It is growing and changing and groping for answers but it is alive! . . . We can do anything! The impossible dream is always being fulfilled in this country!"

So says this uncommon common man, who feels and lives between exclamation marks, this most upbeat of candidates, this old-fashioned spellbinder with the master's degree, this barefoot boy from South Dakota with the monogrammed shirts, this old-line liberal who helped pass much of the nation's social legislation and is now scorned by many liberals as a "company man," his happy salesman with the compelling, if not always contagious spirit.

"I speak of the politics of hope, of a new democracy for all! . . . You don't have to tear the party apart or the country down to build yourself up! . . . Let's plan ahead and not relive yesterday . . . I am an organization man and proud of it. I run on the record of the Kennedy-Johnson administration and the Johnson-Humphrey administration. But we're going to build on it, not rest on it!

". . . Let's stop talking about black power or white power and talk about people power! . . . Responsibility excludes deliberate divisiveness . . . Let's turn protest into progress! . . . I don't say we shouldn't talk about what's wrong in America. But let's give equal time to what's right in America! . . . You're as old as your fears, as young as your competence, as old as your doubts, as young as your hopes! . . ."

So says Hubert Humphrey, an instinctive politician of 57, ever conscious of Robert Kennedy, who is 42. Hubert Humphrey who senses a public hunger for good news among the bad, who walks the classic tightrope of the heir of the incumbent administration, with one eye on its admirers and the other on its critics.

If, among the Democratic candidates Robert Kennedy reminds you of an intense boy prosecutor and Gene McCarthy of a detached philosophy professor, Hubert Humphrey compels the vision of a happy oldtime drummer, like and well-liked, who sails into town with a shine on his shoes, a smile on his face and a sample case full of notions. Trouble in River City? Sure, there's trouble in River City, folks, but it can all be fixed.

Selling unity or trombones, progress or motherhood, social idealism or the power of positive thinking, Hubert Humphrey remains eternally the happy salesman. Give him an order and he's happy. Don't give him an order and he's still happy. But try to stop him from giving his spiel and you'll surely wipe out that smile and tie him up with a double hernia.

This man, as every schoolboy must know by now, loves to talk, loves the contest, loves to campaign, loves to feel a rapport with his audience. Although he is capable of short eloquent speeches with substance and polish, he generally emerges in this campaign as far less sophisticated than Kennedy and less intellectual than McCarthy. He acknowledges the nation's problems in race, poverty, education, housing and welfare but so far he has deliberatedly avoided specific solutions.

As of now, he apparently doesn't need to. He is the front-runner. Kennedy is getting the frenzied crowds, McCarthy is getting the approving murmurs of the intellectuals and Humphrey is quietly collecting the people who count most before the convention, the delegates.

He can be as folksy as a backyard barbecue.

In Rawling, Wyo.: "I want to thank you good people of Wyoming for sending Gale McGee to the United States Senate. And I want to thank Lorraine for marrying him."

In Denver: "I want you to know that Muriel is fine and getting out of the hospital soon. I know she's better because she's getting sassy again and giving me orders."

And like Kansas in August.

In Rawlins: "I've seen such wonderful children today. Children are God's testament to the future."

In Lansing, Mich.: "We talk about getting a bigger bang out of every dollar we spend for the hardware of defense. It is now time for efficiency and humanity in the heart-ware department."

No single example of his rhetoric typifies Hubert Humphrey in the preconvention campaign of 1968. Perhaps the one that comes closest is the "few informal remarks" he delivered to Nebraska Democrats over breakfast in Omaha. He said he wouldn't talk long because of a sore throat. He talked 40 minutes, all ad lib. Since he wasn't on the Nebraska primary ballot, he said, he wouldn't presume to tell the audience how to vote. Then, suddenly, he was painting a picture of a modern jet liner about to take off.

He talked of the storm warnings and turbulence ahead. He described the vulnerable look of a white-haired old lady boarding the plane. Also the vulnerable look of a young boy alone. And then the captain, a man with "a little gray at the temples," comes through the plane and the apprehensive passengers feel safer because they know that "if this plane has to go through a storm, this pilot and his experienced crew have flown through 1,000 storms. Now, we're going through some storms today . . ."

And, with the plane still warming up Hubert Humphrey talked of the storm of social change and he talked of the ship of state and he talked about changing horses in midstream and just about the time it looked like he would sink in a swamp of mixed metaphors, he saw the light through the forest and rushed forward and saved the day:

"Now the pilot has said he doesn't want to fly any more. Might I say, don't throw out the copilot!"

Away from the platform, away from the shrill, extroverted demands of politics, there is a quieter Hubert Humphrey, a thoughtful man with a refreshing perspective about himself and public life. This emerged during a reflective conversation on his campaign plane.

"Issues aside, why do you want to be president? What is the pull of the job?"

The Vice President answered slowly after a long pause. "I had to ask myself that after the President made his announcement and to be quite honest about it, I didnt' know. I sort of felt I ought to seek the nomination because I was the Vice President and did represent the administration and because there were a number of people who looked to me to do so."

"Surely, you had thought about it before March 31?"

"Oh, yes. Then I thought also, well this may be my one great chance. I'm at a period of my life where I'm vigorous, alive and, I hope, alert, where my experience is, maybe, at its blossom. I felt maybe I was better equipped not to take on the job. But you don't really hunger for it."

"Perhaps not hunger."

"No. no, you don't do that. It is a culmination. There is this built-in momentum in politics. It's like a magnet drawing you, if you're involved at this level of political life. You sort of feel that this is what you are moving toward. This is the ultimate, the climax, the center of the story of your political life.

"To be honest about it, I had often thought before what would happen if anything happened to the President—whether or not I was really up to it, whether I had prepared myself adequately. And I really did try during these three-and-a-half years to go through a training course, if there is such a thing, which I doubt. There is some preparatory work and I went through that.

"I had really, in the past year, more or less resolved that I most likely would not be a candidate for president in '72. I felt that if I were to become president it would be one of two ways. Either the president would not run in '68, which he had indicated to me many times and which I never believed. Secondly that it would come because of disability on the part of the President. And both of these I sort of pushed aside, you know, as unrealistic."

"Why had you canceled out 1972?"

"Several reasons. One is that after you are vice president for eight years, you're sort of worked out, worked over. You're the inheritor of so much of what has gone on before that you would have a very difficult time liberating yourself to be your own independent man. Then, I would have been 61. And I thought that the American people might feel it's all right to have a president of 61 but a candidate of that age, particularly with younger men available, might not seem exactly what they want.

"And I thought, there was no use in breaking your heart. You know, really, this is such a big thing that you've got to be sure of yourself, that you have the stamina to take it. I wasn't at all sure that in 1972, after the self-imposed discipline of eight years in the vice presidency, if that should have been my lot, with all the anonymity you have to have, the subservience that is required, that you'd be either emotionally or physically ready to do it."

"Harry Truman used to describe the presidency as a jail. Do you?"

"No. I think there is great dignity to it, a kind of beauty to it. With all its duties and responsibilities and discipline, I believe that a man can have a life of personal fulfillment. I would hope, if I were elected, to be a president that could move with the people some. I know how difficult it is, I know the dangers to the president's physical well-being in this country.

"But I also believe this is a chance you have to take. For one's own mental, political, emotional health, you have to get around the country. I have to. Really, in politics, what's most important is your spirit."

"I noticed in that Omaha hotel you were saying aloud, but as if to yourself, how good you felt. What prompted that?"

"I was doing what I want to do."

"You feel sort of liberated?"

"Yes. I'm out on my own, so to speak, not repudiating my family but on my own. I'm like the young man that has come of age. It's like being in business with your father, and finally dad says, look, you're going to run the business, and you sort of take on a new personality. I never ever wanted to humiliate my father or hurt him. I don't want to hurt the President. I feel a great genuine affection for him. I don't want to do anything that would cause him embarrassment or undue worry. But by the same token, I now am like the man that has gone off to college. You know, I mean, it's my day."

"You really like campaigning, don't you?"

"Yes, I like campaigning. It's got its burdens and weariness but I like it. It gives me a chance to meet many people and express my ideas and test myself against many imponderables every day. Some days you do well, some you don't. Some days you go back to your room and say, 'Oh, why did I louse that up?' Some days you say, 'I hit the ball out of the park.' You know when you do and you know when you don't and you don't need anyone to tell you. To do well, you have to have great confidence in yourself and your message. As Satchel Paige would say, your juices have to be running."

"Your juices seem to run more often than anybody I know."

"They don't always but . . . I must say, if I have any quality which can commend itself, I do believe in what I say. I just cannot get up before an audience and sell them something I don't believe in. I sometimes believe in it so much it becomes redundant. Maybe I am overly zealous about getting my message across but it isn't because I just want to say it. It's because I want them to believe it. But a fellow has his weaknesses and one of mine is nobody enjoys it more than I do."

"Getting back to the big job, you've seen the presidency and its burdens close up. Do you ever find yourself asking yourself during the night, who am I to seek it?"

"Of course. That's why it took me time to make up my mind. But somebody has to do the job. And you have to evaluate whether or not you think you are as well prepared for it as the other fellow. Plus, you have views, convictions and where better can you fulfill those convictions than in the presidency?

"I think that every public position is essentially a position of an educator as well as action. You're persuading, you're conditioning, you're educating and the greatest educator in America should be the president. It is a tremendous challenge and because it is, it becomes all the more interesting to you. Every part of you is challenged."

"I suppose that's part of the pull of the job."

"I'm sure it is. It's almost like, why would a man want to be an astronaut? Well, why not? If you've flown a plane, why not try space? If you've been in outer space, why not go to the moon? Particularly if you think you can handle it.

"I have seen the President make awesome decisions. That's an awfully difficult thing. It is even somewhat terrifying to watch. But somebody has to do it and I think maybe that I can do it as well as the next fellow and maybe a little better or I wouldn't be seeking the office.

"This isn't a contest between perfection and imperfection. It's a contest between imperfect men. It really is. We're—none of us has all the qualities a great nation ought to have all the time. It's a question of whether we have enough of the qualities that can add up to be a positive force in the life of the nation.

"And I guess, maybe, a man sort of immodestly assesses them and says, 'Well, here's the other man, here's another man, here's another man, here's another, here am I. Now how does it stack up?' Well, you check it out and, of course, you can always come to the decision that you're the one."

"Wouldn't it be horrible to conclude there's another man better than you are?"

"Particularly in midstream."

The Vice President was laughing now. A campaign aide came forward to remind him he was going to take a nap before the next stop.

"I am not going to take a nap," said Hubert Humphrey. "I'm having a good time!"

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If there is no further morning business, morning business is concluded.

AMENDMENT OF THE BANKRUPTCY ACT AND THE CIVIL SERVICE RETIREMENT LAW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (S. 1316) to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on the bill.

The yeas and nays were ordered.

Mr. BURDICK. Mr. President, we now have under consideration S. 1316, dealing with the retirement program with respect to the tenure and retirement benefits for referees in bankruptcy.

The bill affects roughly 220 individuals, 179 full-time referees and 40 part-time referees.

The bill does three things, in essence. It lengthens the term of the 179 full-time referees from 6 to 12 years and provides compulsory retirement at age 75. Second, it provides more liberal retirement for referees. The provisions are similar to those for retirement in the legislative branch. And, third, it increases the employee and Government contributions into the retirement fund from 6½ to 7½ percent by both employee and employing Government agency.

It is estimated that after this bill becomes fully operative, it will cost the Government approximately $42,000 a year. It will not become operative until the present terms expire, which are now 6-year terms. After that period the rates of contribution will increase from 6½ to 7½ percent.

That, in essence, is the bill.

Why is the bill necessary? First of all, let me say that the Judicial Conference has been laboring on this question for several years. Because of the growth of bankruptcy and because of the importance of bankruptcy, it is felt that better, more qualified men will be attracted to the bankruptcy area.

Many people regard a referee as an inferior officer, but he is a judicial officer. He has the powers of a judicial officer. As a matter of fact, his qualifications and his oath of office are comparable to those of any Federal judicial officer. He must have learning and training and wide experience in law. So, from many aspects and for many purposes, a referee in bankruptcy is actually a judge in bankruptcy.

Consider the millions of dollars involved in property that are handled by a referee. That money affects the lives of many people and many corporations in their dealings with various sections of the Bankruptcy Act. Some of the issues are more complicated than many of those handled by district judges.

So here is an attempt to try to upgrade the bankruptcy area.

What are we talking about? At the end of World War II—at the end of 1946—there were 10,196 bankruptcy cases pending in the various courts in the land. At the end of last year, 1967, there were 208,329 cases pending. In other words, the bankruptcy load has increased twentyfold. So you can see how this affects the life of a nation and why it is necessary to have men of quality acting as referees or, as some would like to call them, judges in bankruptcy.

One of the problems we face is to induce good men with legal training to enter this branch of service. The practice has shown that only those who have had many years of legal experience and practice, and after they have reached the age of 40 or 45, become referees in bankruptcy. This background and experience is needed.

If we were to apply the retirement rules that exist at present, most of these men, starting at the age of 45 or 40, would have to serve another 41 years and 11 months—almost 42 years—before they could receive maximum retirement benefits, or 80 percent of their salaries. That means a man of 45 would have to serve until he retired at the age of 87. I am sure no one wants that. That is the law as it is today.

We tried to take care of that aspect and made retirement compulsory at age 75 and shortened the period so that, in 32 years, under the new formula, an individual could retire with the maximum amount, 80 percent of his salary.

That is the gist of the argument—that we have to upgrade these people and put them on a better and a comparable footing with that of judges.

To those who say this will cost some money, let me say there is a catchup period until the time when they will pay 7.5 percent. There is a catchup period. But bear in mind that our Federal judges receive $30,000 a year in the district courts and, I believe, $32,000 a year in the circuit courts, as against $22,500 for the referees. Bear in mind that a Federal judge pays nothing toward his retirement benefits. When he retires, after 10 years of service, at age 70, he retires at full pay. He makes no contribution to the retirement system. He may retire after 15 years of service at age 65. So we are dealing with a judicial officer just as we are with a Federal judge. Yet we are giving him none of the comparable benefits.

This bill is endorsed, as I say, by the Judicial Conference. As a matter of fact, they drew the original draft. I am sure I do not have to explain to this body who

the Judicial Conference is. It is supported by the National Bankruptcy Conference, the American Bar Association, and, I believe, the American Judicature Society, many of our State and local bars, and has widespread support throughout the legal community.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. BURDICK. I yield.

Mr. CARLSON. Mr. President, I wish to offer an amendment to the pending bill.

The PRESIDING OFFICER (Mr. NELSON in the chair). The committee amendments have not been agreed to yet. They would have to be acted on before an amendment could be offered.

Mr. BURDICK. Mr. President, before we entertain this amendment, I ask that the committee amendments be agreed to and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the committee amendments are agreed to and the bill is considered as original text for the purpose of amendment.

Mr. CARLSON. Mr. President, I wish this amendment to be pending, and will discuss it later, after the distinguished Senator has completed his statement.

The PRESIDING OFFICER. The amendment offered by the Senator from Kansas will be stated.

The LEGISLATIVE CLERK. It is proposed to strike the language commencing on page 1, line 10, down to and including line 7 on page 2; and to strike the language beginning on page 3, line 3, down to and including line 15 on page 3.

Mr. CARLSON. Mr. President, at the present time I merely wish to state that the amendment strikes out the retirement provisions.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. CARLSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota may proceed.

Mr. BURDICK. Mr. President, referees in bankruptcy are judges of the bankruptcy courts and are presently under the regular civil service retirement law which requires over 40 years of service to reach maximum retirement benefits. To find persons of necessary experience and judicial temperament appointees are usually 40 to 45 years of age and cannot attain length of service to attain satisfactory retirement under present law. This bill would enable a referee to realize maximum annuity benefit in 32 years instead of 41 years.

To attract top-quality men for these judicial positions and to persuade them to relinquish a good law practice the Government must provide adequate compensation, security of tenure, and better retirement. The present maximum salary of a full-time referee is $22,500 a year and the term of office 6 years. This bill would correct the retirement and tenure situations and enable the course to attract and hold top quality lawyers for these important judicial positions. Referees take the same oath and should have the same qualifications as Federal judges who have lifetime tenure, higher salaries, and retirement on full compensation.

Mr. President, I submit that this bill will, in a large measure, through lengthening the terms and through improving the retirement system, attract better men to this area of law, which is growing every day.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BURDICK. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair, until not later than 1:45 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon (at 12 o'clock and 44 minutes p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 1 o'clock and 42 minutes p.m., when called to order by the Presiding Officer (Mr. GORE in the chair).

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC INDICATORS SHOW SLOWDOWN IN APRIL

Mr. PROXMIRE. Mr. President, this morning two distinguished economists appeared before our Joint Economic Committee, both of whom made remarks on the outlook for the economy. Economics Prof. Lester C. Thurow of Harvard University pointed out that virtually every econometric model shows—if you program into it the tax increase and the expenditure reduction which are now pending in the House of Representatives and appear almost sure to pass—that we will have a recession in 1969. Dr. Gerhard Colm, chief economist, National Planning Association, one of the most distinguished economists in the Nation, says the proposed increase in taxes and reduction in spending will result in an increase in unemployment, next year, of from 500,000 to 1 million additional persons.

I also point out that the business cycle developments during the past month have changed the situation dramatically from what it was in March. The figures for April, which have just become available, show that of the 21 available series of lending indicators, only six series were pointing up in April, compared to 16 series in March. In other words, whereas in March the indicators indicated we were passing into an expansionary period in our economy, in April, the most recent month for which figures are available, the indications are the economy is already contracting, already moving downhill, even before the Senate passes fiscal legislation, that is, an increase in taxes and a cut in expenditures, which is bound to push the economy down faster and farther.

I ask unanimous consent that a table indicating these changes and a letter of transmittal explaining the changes be printed in the RECORD at this point.

There being no objection, the table and letter were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
May 31, 1968.

MEMORANDUM

To: Senator WILLIAM PROXMIRE.
From: John R. Stark.
Subject: Summary of economic indicators.

Attached is a summary table from the May issue of *Business Cycle Developments* containing the data on leading indicators for the month of April.

Of the 21 available series on leading indicators, 6 series were pointing up in April compared to 16 series in March. Among the series which showed declines were the following:

Average work week: 40.4 hours in April compared to 40.7 in March.

Nonagricultural placements—all industries: Down 8 percent from March to April.

New orders, durable goods industries: Down 2.6 percent in April compared to March, which was up 5.2 percent from February.

Contracts and orders, plant and equipment: Down 6.1 percent in April after rising 5.0 percent in March.

New building permits, private housing: Down 5.8 percent in April after rising 1.2 percent in March and 23.5 percent in February.

Industrial materials prices: Down 1.8 percent in April after climbing 0.6 percent in March.

Ratio, price to unit labor cost, manufacturing: Down 0.3 percent in April after rising 0.3 percent in the previous month.

The series which increased were the following:

New orders, machine and equipment industries: Up 4.6 percent in April and 2.7 percent in March.

Private, nonfarm housing starts: Up 8.3 percent in April, down 2.1 percent in March, and up 4.8 percent in February.

Buying policy, production materials, commitments of 60 days or longer: Up 6.2 percent in April and 4.9 percent in March.

Stock prices, 500 common stocks: Up 7.4 percent.

Change in U.S. money supply: Up 2.64 percent.

Among the major coincident and lagging indicators, the following changes occurred for the month of April:

Employees in nonagricultural establishments: Up 0.2 percent.

Unemployment rate: 3.5 percent in April, down slightly from 3.6 percent in March.

Industrial production: Unchanged.

Personal income: Up 0.5 percent in April after rising 1.1 percent in March and 1.3 percent in February.

Sales of retail stores: Down 1.7 percent in April, after rising 2.7 percent in March.

Labor cost per unit of output, manufacturing: Up 0.5 percent in April.

Commercial and industrial loans outstanding: Up 3.1 percent.

The Labor Department's recent release on prices for the month of April shows an increase for the Consumer Price Index of 0.3 percent over March—4.0 percent above the April 1967 level. From March to April, nondurables rose 0.3 percent (food and beverages at home, 0.6 percent; apparel and accessories, 0.6 percent; and household furnishings and supplies, 0.6 percent), durable goods, 0.2 percent and consumer services, 0.3 percent (medical care services prices 0.5 percent).

The Wholesale Price Index rose 0.1 percent in April and another 0.1 percent in May. Prices of industrial commodities were up 0.2 percent in April, but down 0.2 percent in May. Significant price declines occurred in primary copper and copper-based products reflecting the strike settlement. Iron and steel scrap prices also declined. It is interesting to note that the decline in industrial prices from April to May was the first since June 1964.

BASIC DATA—CHANGES OVER 4 LATEST MONTHS

Series	Comparative measures: Average percent change [1] [2] — April 1967 to date (with sign) [3]	April 1967 to date (without sign) [4]	1953 to 1967 (without sign) [4] [5]	Duration (months): Average [6]	Current direction [7]	Current performance: Basic data [8] — Unit of measure	February 1968	March 1968	April 1968	Percent change [2] — January to February 1968	February to March 1968	March to April 1968
LEADING INDICATORS												
I. Employment and unemployment												
Marginal employment adjustments:												
1. Average workweek, production workers, manufacturing. [9]	0	0.5	0.5	2.2	1	Hours	40.7	40.7	[10] 40.4	+1.2	0	−0.7
30. Nonagricultural placements, all industries. [9]	−.3	3.1	2.1	2.0	1	Thousands	479	494	[10] 455	−3.8	+3.1	−7.9
2. Accession rate, manufacturing	−.3	4.5	4.6	2.2	1	Per 100 employees	4.5	[10] 4.0	([11])	0	−11.1	([11])
5. Average weekly initial claims, State unemployment insurance (inverted). [2]	+2.3	6.5	5.3	1.7	1	Thousands	199	188	190	+7.0	+5.5	−1.1
3. Layoff rate, manufacturing (inverted) [2]	+.1	11.0	9.4	2.1	1	Per 100 employees	[12] 1.4	[10] 1.3	([11])	-	+7.1	([11])
III. Fixed capital investment												
Formation of business enterprises:												
38. Index of net business formation [9]	+.8	1.1	.8	2.9	1	1957–59=100	114.5	113.6	([11])	+.9	−.8	([11])
13. New business incorporations	+.7	3.6	2.5	1.8	1	Number	18,014	17,974	([11])	+4.6	−.2	([11])
New investment commitments:												
6. New orders, durable goods industries [9]	+1.2	3.4	3.6	1.8	1	Billion dollars	[12] 24.83	[12] 26.11	[10] 25.42	+.2	+5.2	−2.6
94. Construction contracts, value	+.8	6.7	6.4	1.6	1	1957–59=100	156	176	146	−1.9	+12.8	−17.0
10. Contracts and orders, plant and equipment. [9]	+.4	4.2	4.6	1.8	1	Billion dollars	[12] 5.62	[12] 5.90	[10] 5.54	−4.7	+5.0	−6.1
11. New capital appropriations, manufacturing. [13]	−1.5	3.0	9.3	9.2	6	do	[10] 5.57			−4.1		
24. New orders, machinery and equipment industries.	+.8	3.6	4.1	1.9	2	do	[12] 4.49	[12] 4.61	[10] 4.82	−7.8	+2.7	+4.6
9. Construction contracts, commercial and industrial buildings.	−1.1	8.0	8.5	1.5	1	Million square feet floor space.	61.39	66.61	47.09	−4.8	+8.5	−29.3
7. Private nonfarm housing starts	+3.6	8.0	7.2	1.6	1	Annual rate, thousands	[12] 1,499	[12] 1,468	[10] 1,590	+4.8	−2.1	+8.3
29. New building permits, private housing [9]	+2.4	7.1	3.9	1.9	1	1957–59=100	120.0	[12] 121.4	[10] 114.4	+23.5	+1.2	−5.8
IV. Inventories and inventory investment												
Inventory investment and purchasing:												
21. Change in business inventories, all industries. [13] [14]	+.7	5.1	2.6	5.3	3	Annual rate, billion dollars	[12] +2.7			−6.5		
31. Change in book value, manufacturing and trade inventories. [9] [14]	−.1	5.7	3.8	1.5	3	do	[12] +3.4	[10] +2.3	([11])	−3.8	−1.1	([11])
37. Purchased materials, percent reporting higher inventories.	+2.9	5.3	6.5	2.4	3	Percent	53	52	51	−3.6	−1.9	−1.9
20. Change in book value, manufacturers' inventories of materials and supplies. [14]	−.2	1.2	1.5	1.6	2	Annual rate, billion dollars	[12] −.2	[10] −0.7	([11])	−.5	−.5	([11])
26. Buying policy, prod. materials, commitments 60 days or longer. [15]	+.3	4.3	5.0	1.8	2	Percent	61	64	68	−4.7	+4.9	+6.2
32. Vendor performance, percent reporting slower deliveries. [17]	+2.6	5.8	7.4	3.1	2	do	55	54	52	+10.0	−1.8	−3.7
25. Change in unfilled orders, durable goods industries. [14]	+.05	.75	.50	1.7	1	Billion dollars	[12] +.18	[12] +.94	[10] +.51	+.64	+.76	−.43
V. Prices, costs, and profits												
Sensitive commodity prices:												
23. Industrial materials prices [9] [15]	−0.1	0.7	1.3	2.6	1	1957–59=100	99.5	100.1	98.3	−0.3	+0.6	−1.8
Stock prices:												
19. Stock prices, 500 common stocks [9] [15]	+.5	2.3	2.5	2.4	1	1941–43=10	90.75	89.09	95.67	−4.5	−1.8	+7.4
Profits and profit margins:												
16. Corporate profits after taxes [9] [13]	+4.0	4.0	5.2	9.2	9	Annual rate, billion dollars	[10] 52.2			+4.2		
22. Ratio, profits to income originating, corporate, all industries [13]	+1.7	2.8	4.1	7.6	6	Percent	[10] 12.5			+2.5		
18. Profits per dollar of sales, manufacturing [13]	+1.2	2.5	5.6	7.9	3	Cents	([11])			([11])		
17. Ratio, price to unit labor cost, manufacturing. [9]	−.1	.5	.6	2.5	1	1957–59=100	[12] 99.2	[12] 99.5	[10] 99.2	−.4	+.3	−.3
VI. Money and credit												
Flows of money and credit:												
98. Change in money supply and time deposits. [1] [16]	−.04	3.00	2.49	1.5	1	Annual rate, percent	+4.20	+8.16	[10] +5.16	+1.20	+3.96	−3.00
85. Change in U.S. money supply [14]	+.94	4.88	2.89	1.4	2	do	0.00	+5.88	[10] +8.52	−6.60	+5.88	+2.64
33. Change in mortgage debt [14]	+.58	2.56	1.34	1.5	1	Annual rate, billion dollars	+19.20	[10] +17.96	([11])	+.71	−1.24	([11])
113. Change in consumer installment debt [9] [14]	+.38	.78	.86	1.6	3	do	+6.79	+6.79	([11])	+2.01	0	([11])
112. Change in business loans [14]	+.87	9.27	2.77	1.6	2	do	−2.28	+4.07	[10] +19.64	−14.81	+6.35	+15.57
110. Total private borrowing [13]	+2.8	12.7	11.0	6.7	3	Annual rate, million dollars	[10] 65,564			−14.8		
Credit difficulties:												
14. Liabilities of business failures (inverted [2])	−2.8	22.0	19.6	1.5	4	Million dollars	81.06	80.46	80.43	+30.5	+.7	0
39. Delinquency rate, installment loans, 30 days and over (inverted [2]).	+4.3	6.4	2.7	5.2	2	Percent	1.51		([11])	+13.2		([11])
ROUGHLY COINCIDENT INDICATORS												
I. Employment and unemployment												
Job vacancies:												
301. Nonagricultural job openings unfilled	+.4	2.1	3.1	3.7	4	Thousands	360	368	[10] 370	+1.1	+2.2	+.5
46. Help-wanted advertising	+.4	3.2	3.0	3.0	1	1957–59=100	193	[12] 202	[10] 188	+4.9	+4.7	−6.9

Footnotes at end of table.

BASIC DATA—CHANGES OVER 4 LATEST MONTHS—Continued

Series	Comparative measures: Average percent change [1] [2] — April 1967 to date (with sign) [3]	April 1967 to date (without sign) [4]	1953 to 1967 (without sign) [4] [5]	Duration (months): Average [6]	Duration (months): Current direction [7]	Current performance: Basic data [8] — Unit of measure	February 1968	March 1968	April 1968	Percent change [2]: January to February 1968	February to March 1968	March to April 1968
ROUGHLY COINCIDENT INDICATORS—Con.												
Comprehensive employment:												
511. Man-hours in nonagricultural establishments.	+.2	.6	.4	2.8	2	Annual rate, billion man-hours.	[12] 135.26	[12] 135.00	[10] 134.78	+1.7	−.2	−.2
41. Employees in nonagricultural establishments.[9]	+.3	.3	.3	4.9	7	Thousands	67,712	[12] 67,813	[10] 67,921	+.9	+.1	+.2
42. Total nonagricultural employment	+.2	.3	.4	2.2	1	do	71,604	71,788	71,656	+.6	+.3	−.2
Comprehensive unemployment:												
43 Unemployment rate, total (inverted [2]) [9]	+.3	4.3	3.8	2.7	2	Percent	3.7	3.6	3.5	−5.7	+2.7	+2.8
45. Average weekly insured unemployment rate, State (inverted [2]).	+1.7	4.3	4.2	5.0	2	do	2.3	2.2	2.1	0	+4.3	+4.5
40. Unemployment rate, married males (inverted [2]).	+1.8	4.7	5.9	3.4	1	do	1.7	1.7	1.5	−6.2	0	+11.8
II. Production, income, consumption, and trade												
Comprehensive production:												
49. GNP in current dollars [13]	+2.2	2.2	1.5	19.3	87	Annual rate, billion dollars	[12] 826.7			+2.4		
50. GNP in 1958 dollars [13]	+1.2	1.2	1.2	10.2	12	do	689.7			+1.5		
47. Industrial production [9]	+.3	.6	1.0	3.5	3	1957–59=100	[12] 161.9	[12] 162.7	[10] 162.7	+.4	+.5	0
Comprehensive income:												
52. Personal income [9]	+.7	.7	.5	5.3	30	Annual rate, billion dollars	[12] 659.4	[12] 666.5	[10] 670.1	+1.3	+1.1	+.5
53. Wages, salaries in mining, manufacturing, construction.	+.6	.8	.8	2.9	3	do	173.9	[12] 174.5	[10] 175.2	+2.1	+.3	+.4
Comprehensive consumption and trade:												
816. Manufacturing and trade sales [9]	+.8	1.1	1.0	2.3	5	Million dollars	[12] 92,595	[10] 94,327	([11])	+.1	+1.9	([11])
57. Final sales [13]	+2.1	2.1	1.4	34.8	120	Annual rate, billion dollars	[12] 824.0			+3.2		
54. Sales of retail stores [9]	+.5	1.3	.9	2.2	1	Million dollars	[12] 27,399	[12] 28,129	[10] 27,640	+1.2	+2.7	−1.7
III. Fixed capital investment												
Backlog of investment commitments:												
96. Unfilled orders, durable goods industries	+.7	.8	1.4	5.7	3	Billion dollars	[12] 79.32	[12] 80.26	[10] 80.77	+.2	+1.2	+.6
97. Backlog of capital appropriations, manufacturing.[16]	+.3	.7	5.4	12.4	6	do		[10] 20.53			−.4	
V. Prices, costs, and profits												
Comprehensive wholesale prices:												
55. Wholesale prices, industrial commodities [15]	+.2	.2	.2	4.1	46	1957–59=100	108.3	108.6	108.8	+.5	+.3	+.2
58. Wholesale prices, manufactured goods [15]	+.2	.2	.2	3.3	12	do	108.6	108.9	109.0	+.5	+.3	+.1
VI. Money and credit												
Bank reserves:												
93. Free reserves [14] (inverted [2]) [15]	50	99	93	2.1	3	Million dollars	[12] +38	[12] −315	[10] −420	+106	+353	+105
Money market interest rates:												
114. Treasury bill rate [15]	+3.0	5.1	6.4	2.6	2	Percent	4.97	5.14	5.36	−2.2	+3.4	+4.3
116. Corporate bond yields [15]	+1.7	2.6	1.8	2.7	1	do	6.57	6.80	6.79	0	+3.5	−.1
115. Treasury bond yields [15]	+1.4	2.6	1.7	2.8	1	do	5.16	5.39	5.28	−.4	+4.5	−2.0
117. Municipal bond yields [15]	+1.6	3.0	2.5	2.6	1	do	4.31	4.54	4.34	+.5	+5.3	−4.4
LAGGING INDICATORS												
I. Employment and unemployment												
Long-duration unemployment:												
502. Unemployment rate, persons unemployed 15 weeks and over (inverted [2]) [9]	+1.4	1.4	6.3	4.1	18	Percent	0.6	0.6	0.5	0	0	+16.7
III. Fixed capital investment												
Investment expenditures:												
61. Business expenditures, new plan and equipment [9] [13]	+1.8	2.4	3.1	17.4	6	Annual rate, billion dollars	[17] 64.80			+3.3		
505. Machinery and equipment sales and business construction expenditures	+.8	1.6	1.8	1.9	1	do	[12] 72.25	[10] 73.17	([11])	−1.3	+1.3	([11])
IV. Inventories and inventory investment												
Inventories:												
71. Book value, manufacturing and trade inventories [9]	+.3	.4	.5	6.8	9	Billion dollars	[12] 141.62	[10] 141.81	([11])	+.2	+.1	([11])
65. Book value, manufacturers inventories of finished goods	+.4	.7	.6	3.6	5	do	[12] 27.85	[10] 28.06	([11])	+.5	+.8	([11])
V. Prices, costs, and profits												
Unit labor costs:												
68. Labor cost (current dollars) per unit of gross product (1958 dollars), nonfin. corp.[13]	+1.0	1.0	.9	9.2	27	Dollars	[10] 0.734			+1.2		
62. Labor cost per unit of output, manufacturing.[9]	+.4	.5	.6	2.5	1	1957–59=100	[12] 109.5	[12] 109.4	[10] 109.9	+.9	−.1	+.5
VI. Money and credit												
Outstanding debt:												
66. Consumer installment debt	+.5	.5	.8	13.5	82	Million dollars	77,853	78,419	([11])	+.7	+.7	([11])
72. Commercial and industrial loans outstanding.[9]	+.7	1.2	1.0	3.7	2	do	65,450	65,789	[10] 67,844	−.1	+.5	+3.1
Interest rates on business loans and mortgages:												
67. Bank rates on short-term business loans.[9] [13] [15]	+2.3	2.3	2.2	7.9	6	Percent	6.36			+6.7		
118. Mortgage yields, residential [15]	+.8	.9	.6	10.6	2	do	6.78	6.83	6.94	−.4	+.7	+1.6

Footnotes at end of table.

BASIC DATA—CHANGES OVER 4 LATEST MONTHS—Continued

Series	Comparative measures: Average percent change [1] [2] — April 1967 to date (with sign) [3]	April 1967 to date (without sign) [4]	1953 to 1967 (without sign) [4] [5]	Duration (months): Average [6]	Current direction [7]	Current performance: Basic data [8] — Unit of measure	February 1968	March 1968	April 1968	Percent change [2] — January to February 1968	February to March 1968	March to April 1968
SERIES UNCLASSIFIED BY CYCLICAL TIMING												
V. Prices, costs, and profits												
Comprehensive retail prices:												
81. Consumer prices [15]	+.3	.3	.2	4.2	32	1957–59=100	119.0	119.5	119.9	+.3	+.4	+.3
VII. Foreign trade and payments												
89. U.S. balance of payments: [13] [14]												
a. Liquidity balance basis	−16	846	308	5.1	3	Million dollars	[10] −600			+1,245		
b. Official settlement basis	+104	1,221	573	5.6	3	do	[10] −520			+700		
88. Merchandise trade balance [14]	−15.0	133.1	57.7	1.6	1	do	+171.2	−157.7	+248.0	+1.9	−328.9	+405.7
86. Exports, excluding military aid	+1.0	6.0	3.6	1.8	1	do	2,773.1	2,454.7	2,888.5	−.4	−11.5	+17.7
861. Export orders, durables excluding motor vehicles [15]	+3.0	13.0	12.6	1.4	1	do	[12] 982	[10] 941	([11])	+12.0	−4.2	([11])
862. Export orders, nonelectrical machinery	+2.9	7.6	6.4	1.6	2	1957–59=100	260	[10] 280	([11])	+20.9	+7.7	([11])
87. General imports	+1.5	3.1	2.9	1.8	2	Million dollars	2,601.9	2,612.4	2,640.5	−.5	+.4	+1.1
VIII. Federal Government activities												
95. Federal surplus (+) or deficit (−), national income and product accounts [13] [14]	+1.3	1.3	2.6	6.7	9	Annual rate billion dollars	[10] −10.7			0		
951. Federal receipts, national income and product accounts [13]	+3.7	3.7	2.5	10.4	9	do	[10] 164.9			+4.8		
952. Federal expenditures national income and product [13]	+2.6	2.6	2.1	11.8	39	do	[12] 175.6			+4.6		
101. National defense purchases, current dollars [13]	+1.9	1.9	2.3	.3	36	do	[12] 76.7			+3.4		
91. Defense Department obligations, total	+.9	11.6	13.6	1.4	1	Million dollars	7,615	6,208	([11])	+8.3	−18.5	([11])
90. Defense Department obligation, procurement	+4.7	24.8	26.2	1.4	1	do	2,865	1,985	([11])	+21.4	−30.7	([11])
99. New orders, defense products industries	+4.5	20.2	21.4	1.6	1	Billion dollars	[12] 3.77	[12] 5.20	[10] 4.28	+13.2	+37.9	−17.7
92. Military contract awards in United States	+1.7	10.6	20.9	1.5	1	Million dollars	3,445	3,124	([11])	+19.3	−9.3	([11])
SERIES UNCLASSIFIED BY CYCLICAL TIMING AND ECONOMIC PROCESS												
850. Ratio, output to capacity, manufacturing [15]	−.3	.6	2.2	8.7	3	Percent	[10] 84.1			−.4		
851. Ratio, inventories to sales, manufacturing, trade.	−.5	.9	1.0	2.8	5	Ratio	[12] 1.53	[10] 1.50	([11])	0	−2.0	([11])
852. Ratio, unfilled orders to shipments, manufacturers' durable goods.	−.2	2.2	2.0	2.0	1	do	3.58	[12] 3.54	[10] 3.61	+1.4	−1.1	+2.0
853. Ratio, production of business equipment to consumer goods.	−.4	1.1	.9	2.8	3	1957–59=100	[12] 119.9	[12] 118.8	[10] 118.6	−1.1	−.9	−.2
854. Ratio, personal saving to disposable personal income [13]	−.1	7.9	8.5	4.7	3	Ratio	[12] 0.066			−12.0		
855. Ratio, nonagricultural job openings unfilled to persons unemployed.	+1.1	4.8	5.5	3.3	2	do	0.122	0.129	[10] 0.137	−5.4	+5.7	+6.2
856. Ratio, average earnings to consumer prices	+.1	.3	.4	2.4	1	1957–59=100	[12] 116.6	117.3	[10] 116.8	−.3	+.6	−.4
857. Vacancy rate, total rental housing [13] [15]	−5.5	7.0	3.8	6.3	3	Percent	([11])			([11])		

[1] Average percent changes are based on month-to-month (or quarter-to-quarter) percent changes for the specified periods.
[2] To facilitate interpretations of cyclical movements, those series that usually fall when general business activity rises and rise when business falls are inverted so that rises are shown as declines and declines as rises (see series 3, 5, 14, 39, 40, 43, 45, 93, and 502). Percent changes are computed in the usual way but the signs are reversed. See footnote 10 for other "change" qualifications.
[3] Average computed with regard to sign.
[4] Average computed without regard to sign.
[5] The period varies among the series; however, for most series, the period covered is 1953–67.
[6] Average number of consecutive monthly changes in the same direction (see the explanation for "the average duration of run" in app. C).
[7] Duration of the current direction of change (see the sign of the latest entry in "Current percent change" columns) measured in months. When there is no change between 2 consecutive values the direction is assumed to be the same as that of the preceding period.
[8] Series are seasonally adjusted except for those series, indicated by footnote 15, that appear to contain no seasonal movement. See additional basic data and notes in table 2.
[9] Series included in the 1966 NBER "short list" of indicators.
[10] Preliminary.
[11] Not available.
[12] Revised.
[13] Quarterly series; figures are placed in the middle month of quarter.
[14] Since basic data for this series are expressed in plus or minus amounts, the changes are month-to-month (or quarter-to-quarter) differences expressed in the same unit of measure as the basic data, rather than in percentages.
[15] Not seasonally adjusted.
[16] End-of-quarter series; figures are placed in the last month of quarter.
[17] Anticipated.

COMPREHENSIVE INVESTIGATION OF DEFENSE PROCUREMENT PRACTICES IS LONG OVERDUE

Mr. PROXMIRE. Mr. President, Congress and its investigative units have been turning up cases of waste, inefficiency, mismanagement, and excessive profits in the defense procurement program with greater frequency. The latest example of questionable defense procurement policy and practice concerns a series of contracts awarded by the Navy to the Westinghouse Electric Corp. The profits realized on these contracts were so excessive that, after an investigation by the General Accounting Office, the Government decided to withhold nearly $4 million of the contract price. The GAO found that the profits, which Westinghouse had stated would be about 10 percent of the contract price, actually ran to about 40 percent. Subsequent to the GAO investigation, the Navy auditors concluded that the profits were actually about 60 percent.

Westinghouse, however, has insisted that it is legally entitled to full payment, despite the fact that the profits on these multimillion-dollar contracts amount to around 60 percent. The company has been arguing for payment of the amounts withheld and, apparently, these payments may soon be made.

This latest case, once again, demonstrates the weaknesses in the defense procurement program. Certainly no one could contend that a 60-percent profit on a defense contract is reasonable. Yet, these high profits do not seem to be uncommon. The Subcommittee on Economy in Government of the Joint Economic Committee, of which I am chairman, found similar instances of excessive profits and mismanagement of the defense procurement program in two sets of hearings held last year. The Subcommittee on Economy in Government has already indicated its intent to hold further hearings into the defense procurement this year. I believe a full and comprehensive investigation of defense procurement management practices and policy is long overdue, and I am hopeful that we can make a start toward uncovering the reasons for the frequency of abuses in this important and mammoth program in the hearings which we will formally announce in the near future.

I ask unanimous consent to have printed in the RECORD an article concerning the Westinghouse case entitled "Pentagon Moving To Pay Profit Called Excessive," written by John W. Finney, and published in the New York Times of June 2, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PENTAGON MOVING TO PAY PROFIT CALLED EXCESSIVE—AUDIT UNIT SAYS WESTINGHOUSE IS ENTITLED TO PAYMENT—CALLS THE NAVY AT FAULT

(By John W. Finney)

WASHINGTON, June 1.—The Defense Department is proposing to pay the Westinghouse Electric Corporation nearly $4-million that auditors of the Navy and General Accounting Office contend represents excessive profits on nuclear submarine contracts.

The Defense Contract Audit Agency does not contest that Westinghouse may have made more profit than expected on the contracts. But the agency, the department's "watchdog" on military contracts, argues the Navy was at fault in approving the contracts if they called for undue profits, and that Westinghouse was entitled to the money.

The case, expected to be decided shortly by the Defense Department, was described in general terms in recent Congressional testimony by Vice Adm. Hyman G. Rickover. He called it an example of how defense contractors were able to take advantage of the government.

While the admiral did not identify the contractor, defense officials acknowledged that the case involved Westinghouse contracts entered into 10 years ago for reactor pumps for atomic submarines.

Charles H. Weaver, Westinghouse vice president for government affairs, declined comment on the matter because it was "not appropriate" to discuss a case pending before the contract audit agency.

As described by Admiral Rickover and General Accounting Office reports, this is how the case developed:

Westinghouse was given a general cost-plus-fixed-fee contract to construct reactor power plants for nuclear submarines. It was also given authority to enter into negotiated fixed-price subcontracts for components with the injunction that it was to exercise "due care" that reasonable prices be charged on the subcontracts.

Under this authority, Westinghouse's Plant Apparatus Division awarded two contracts to Westinghouse's Atomic Equipment Division—one of $8,700,360 for 84 pumps, the other for $3,961,000 for 35 pumps.

The Navy consented to the subcontracts but requested cost breakdowns to help establish the reasonableness of these prices. Westinghouse then submitted cost breakdowns indicating that the prices included about a 10 per cent profit.

But on checking the subcontracts in 1962, the General Accounting Office concluded that the profits actually ran to about 40 per cent and that the government had been overcharged about $3-million. Navy auditors concluded that the profits ran to about 60 per cent and that the Government was being overcharged nearly $4-million.

The General Accounting Office recommended that the extra money not be paid on the ground that Westinghouse had not exercised "due care" in determining the reasonableness of the prices on the subcontracts. Navy auditors concurred, and also said that Westinghouse had submitted false and misleading breakdowns.

At one point, the case was referred to the Justice Department, which reportedly agreed that the charges were excessive but contended it would be difficult to prove fraud. As a result, the case was referred back to the Navy with a recommendation that administrative action be taken.

On the basis of these findings and recommendations, the Navy decided in 1964 to withhold payment of nearly $4-million to Westinghouse to recover the excess profits. Westinghouse appealed this decision in 1965, and eventually the appeal was turned over to the Defense Contract Audit Agency, which was established in 1965.

NAVY VIEW UPHELD

Initially, the agency's regional office in Philadelphia, the one responsible for auditing the contracts, issued a preliminary decision upholding the Navy in disallowing the $4-million. In June, 1967, Westinghouse made a further appeal to the agency's headquarters. The agency then conducted a new audit that is leading to a conclusion supporting the Westinghouse claim.

William B. Petty, director of the agency, said in an interview that his office had not made "any final decision." But, according to Admiral Rickover, the agency is favorably considering a recommendation by its Philadelphia office, which has changed management since 1965, that the $4-million be paid Westinghouse.

The argument advanced by Westinghouse and now apparently accepted by the audit agency, according to Admiral Rickover, is that the Navy closely supervised Westinghouse's operations, consented to the use of the fixed-price subcontracts, and was therefore at fault for the high profits. As for the Westinghouse breakdowns showing a 10 per cent profit. Westinghouse and the agency's Philadelphia office argue that the breakdowns "served no real purpose."

WINS 4-YEAR BATTLE

"There is no question in my mind that the Government will ultimately have to pay the $4-million," Admiral Rickover told the House Banking Committee.

"This case," he said, "is a good example that, no matter what the circumstances, if a contractor persists long enough, he usually wins his case. The Government is simply not organized and staffed adequately to take care of the Government's interests."

Admiral Rickover, meanwhile, has apparently won a four-year battle with the Defense Department and Navy over excess profits that he contended the Navy was paying Westinghouse and the General Electric Company to work at two laboratories owned by the Atomic Energy Commission.

In his testimony before the House committee, the admiral renewed his complaint that the Navy was paying the two companies $400,000 more a year than was the commission for equivalent work at the two laboratories.

In a recent letter to Senator Thomas J. McIntyre, Democrat of New Hampshire, who had inquired about reports in the New York Times about the Rickover complaints, J. M. Malloy, Deputy Assistant Secretary of Defense for Procurements, said that the Navy was taking action to bring its fees to the two companies in line with the fees paid by the commission.

HUMAN RIGHTS NEED MORE THAN MERE RECOGNITION

Mr. PROXMIRE. Mr. President, the special meeting of the U.N. General Assembly will be convened later this year to formally commemorate Human Rights Day. On that occasion special United Nations stamps will be issued and special programs highlighting the worldwide battle for human rights will be conducted.

Our country's role should not be limited to perfunctory and well-meaning acknowledgment. We should, instead, make clear our firm and determined approval through Senate ratification of the Human Rights Conventions on Genocide, Political Rights of Women, Forced Labor, and Freedom of Association.

The ratification of these treaties would represent a clear indication on the part of this country that we are stanchly cooperating to advance the course of humanity throughout the world. I feel it is desirable and most necessary during this International Human Rights Year, to take these treaties out of the Foreign Relations Committee and give them our complete endorsement. I again ask the Senate to vote its approval of these treaties and thus give credence to this country's commitment to the fight for the dignity of mankind.

AMENDMENT OF THE BANKRUPTCY ACT AND THE CIVIL SERVICE RETIREMENT LAW

The Senate resumed the consideration of the bill (S. 1316) to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

Mr. CARLSON. Mr. President, I ask for the yeas and nays on my amendment now pending at the desk.

The yeas and nays were ordered.

Mr. CARLSON. Mr. President, I shall speak very briefly. I wish to state first that it is very difficult for me to oppose any bill or any proposal of the distinguished Senator from North Dakota [Mr. BURDICK]. He is not only a good personal friend of mine, but a fellow member of the Civil Service Committee.

The section my amendment would strike from the bill deals with the civil service retirement of referees in bankruptcy.

My first objection, of course, is that the matter has not been considered by the Post Office and Civil Service Committee, which is the committee that deals with civil service retirement. Second, I think Congress should give serious consideration to the position taken by the Civil Service Commission itself, as found in the committee report beginning on page 6. The Commission emphatically opposes this legislation unless there are several changes made.

For example, the Commission points out that sections 2 and 4 of the bill—the sections which my amendment would strike—would amend sections 8334(a) and 8339(c) of title 5 of the United States Code, to provide for referees—keep this in mind, now—higher contributions and a more generous annuity formula than are applicable to employees generally.

One would gather from that statement that referees would contribute a larger amount than regular Civil Service employees. But the facts of the matter are that this would be truly an over-generous addition to the cost to the Government of the Civil Service retirement for referees.

The report to the committee of the chairman of the Civil Service Commission continues as follows:

In addition to the direct increase in the annuity computation formula, the bill indirectly makes available another benefit. The retirement law now provides that when an employee has performed sufficient service to entitle him to the maximum annuity (41 years and 11 months if the salary is $5,000 or more), all deductions withheld during subsequent service, plus 3 percent compound interest, are applied toward any deposit due

for service during which deductions were not currently withheld or for the repayment of a refund of deductions previously received. Any balance not so required is deemed to be voluntary contributions, which may be paid in cash at retirement or used to purchase additional annuity. In effect, the employee ceases to contribute to the cost of his regular annuity when he has served nearly 42 years.

There are several other phases of this that I should read. Mr. President, I ask unanimous consent that an excerpt from the report be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

AMENDMENTS

1. On page 2, beginning with the comma on line 2, strike out through "7½ per centum" in line 4, and insert in lieu thereof "7½ percent".

2. On page 2, between lines 7 and 8, strike out "From and after the effective date of this amendment." and insert in lieu thereof "After June 30, 1968.".

3. On page 2, strike out lines 11 through 18 and insert in lieu thereof the following:

"(f) A referee in bankruptcy who becomes 75 years of age and completes 5 years of service shall be automatically separated from the service. The separation is effective on the last day of the month in which the referee becomes 75 years of age or completes 5 years if then over that age, and pay ends from that day. Subsections (a), (c), (d), and (e) of this section do not apply to a referee in bankruptcy."

4. On page 3, line 6, strike out "per centum" and insert in lieu thereof "percent".

5. On page 3, strike out lines 11 through 13 and insert in lieu thereof the following:

"SEC. 6. (a) The amendments made by section 2 of this Act shall become effective on the first day of the first pay period beginning on or after July 1, 1968.

"(b) In the case of a referee in bankruptcy who is serving on the date of enactment of this Act, the amendment made by section 2 of this Act shall not apply until such referee has completed the term of office under which he is serving on the date of enactment of this Act."

PURPOSE OF AMENDMENTS

The purpose of the amendments is to make technical changes in the bill to carry out recommendations of the U.S. Civil Service Commission.

PURPOSE

The purpose of the bill as amended is to provide more adequate tenure and retirement benefits for referees in bankruptcy.

STATEMENT

The bill introduced by the Honorable Quentin N. Burdick, was the subject of a subcommittee hearing on April 3, 1967.

In its favorable report on the bill, the Administrative Office of the U.S. Courts said:

"This bill was originally drafted at the direction of the Judicial Conference of the United States in 1959 by a special subcommittee of the Bankruptcy Committee of the Conference. The subcommittee was composed of District Judge Edward Weinfeld of the southern district of New York, Chairman, Chief Judge Bailey Aldrich of the first circuit, and Circuit Judge Albert V. Bryan of the fourth circuit. The subcommittee had the benefit of the recommendations of Messrs. Robert J. Myers and John P. Jones of the Department of Health, Education, and Welfare, Mrs. Charles A. Horsky, then chairman of the National Bankruptcy Conference, Reginald W. McDuffee, referee in bankruptcy at Savannah, Ga., president of the National Conference of Referees in Bankruptcy, Elmore Whitehurst, Dallas, Tex., editor of the Conference Journal, and Ronald L. Walker, referee in bankruptcy at Los Angeles, Calif.

"S. 1316 provides (1) that the term of office of a full-time referee shall be increased from 6 years to 12 years and the term of office of a part-time referee to remain at 6 years as at present. Section 1 of S. 1316 amends section 34a of the Bankruptcy Act to increase the term of office of a full-time referee to 12 years.

"Section 2 provides a more liberal retirement plan for referees, in general comparable to the retirement benefits now provided for Members of Congress based on a contribution of 7½ percent of the base pay to be made by the employee and a matching 7½-percent contribution by the employing agency and providing a benefit rate of 2½ percent per year. This section would amend subsections (a) and (c) of section 8334 of title 5, United States Code. It would also amend subsection (c) of section 8339 of title 5, United States Code, to provide for computation of referees' service by multiplying 2½ percent of the 'high-five' average salary by the years of such service.

"Section 3 imposes a compulsory retirement age of 75 years under certain conditions. This section would amend section 8335 of title 5, United States Code, so as to require compulsory retirement of a referee upon reaching the age of 75 years and completing the term of office under which he is serving upon the effective date of this amendment.

"Section 5 of S. 1316 provides that notwithstanding any other provision of law, retirement benefits resulting from enactment of this act shall be paid from the civil service retirement and disability fund.

"Section 6 of S. 1316 provides that the amendments shall take effect on the first day of the first month which begins more than 60 days after the enactment of the bill.

"Referees in bankruptcy are judicial officers and are paid salaries ranging up to $22,500 a year for full-time service and $11,000 a year for part-time service. They are called upon to decide complex issues of law and fact in cases which may involve millions of dollars and the property rights of many people. In this connection it should be noted that in the fiscal year 1967, the 212 referees in office received a total of 208,329 cases, including corporate arrangements, real estate arrangement, corporate reorganization proceedings, and straight bankruptcy asset cases. We believe that it is most important to attract to these positions the best qualified members of the legal profession.

"Referees by reason of their judicial function must be persons of mature age and judgment, with enough experience in the law to have attained both judicial capacity and judicial temperament. It is obvious that the average lawyer will not have attained these attributes much under the age of 40 to 45 years. At the present time only 7 percent of the referees holding office are under 40 years of age.

"Moreover, nearly two-thirds of the referees in office have no previous Federal Government service which would count toward retirement. Upon accepting appointment, a full-time referee must give up his law practice entirely, and upon retirement is prohibited from reentering the practice of bankruptcy law. The latter restriction is severe but necessary considering the professional ethics involved.

"In contrast to the situation of the referee in bankruptcy, the average career civil servant enters the service at an early age, often directly from high school or college. The average civil service employee has an opportunity to earn a fully adequate retirement while the referee in bankruptcy has little chance to do so because of his insecurity of tenure and the mature age at which he can expect to meet the prerequisites of judicial service. Federal judges, on the other hand, may retire on full pay at age 70 after 10 years of service and they hold office 'during good behavior.' In other words, they have lifetime appointments.

"It is the view of the Judicial Conference that there should be a compulsory retirement for referees at age 75, the point at which most professional people have passed their more productive years. This seems equitable and in the best interests of the service provided referees can at the same time be given a more adequate retirement plan similar to that now provided for Members of Congress.

"This bill has the support of the National Bankruptcy Conference, the American Judicature Society, the National Conference of Referees in Bankruptcy, and many State and local Bar Associations. We earnestly recommend the favorable consideration of S. 1316."

The Department of Justice has advised the committee that whether or not the bill should be enacted involves policy consideration as to which the Department of Justice makes no recommendations.

The U.S. Civil Service Commission does not recommend the bill.

Attached and made a part of this report are (1) a letter dated March 29, 1967, from the Administrative Office of the U.S. Courts, (2) a letter dated December 1, 1967, from the Administrative Office of the U.S. Courts, (3) a letter dated April 17, 1967, from the U.S. Civil Service Commission, and (4) a letter dated June 19, 1967, from the U.S. Department of Justice.

"ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
"Washington, D.C., March 29, 1967.

"Hon. JAMES O. EASTLAND,
"Chairman, Committee on the Judiciary,
"U.S. Senate, Washington, D.C.

"DEAR MR. CHAIRMAN: This is in response to your letter of March 21, 1967, inquiring about the bill, S. 1316, 90th Congress, to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

"The proposals contained in S. 1316, in substance, are the same as the proposals contained in H.R. 2556, 88th Congress, which the Judicial Conference of the United States approved at its March 1963 meeting and reaffirmed at its September 1963 meeting. Moreover, in general, the proposals are the same as approved by the Conference at its March 1960 meeting, and embodied in H.R. 5341, 87th Congress which was approved by the Conference at its March 1961 meeting, and reaffirmed at its September 1961, March 1962, and September 1962 meetings. Accordingly, I should like to advise you that the Judicial Conference of the United States approves and recommends the proposals contained in S. 1316.

"Sincerely yours,
"WILLIAM E. FOLEY,
"Deputy Director."

"ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
"Washington, D.C., December 1, 1967.

"Hon. JAMES O. EASTLAND,
"U.S. Senate, Washington, D.C.

"DEAR SENATOR EASTLAND: This letter is in response to a telephone request of Mr. Rosenberger for a concise summary of the objectives of S. 1316, to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

"This bill was originally drafted at the direction of the Judicial Conference of the United States in 1959 by a special subcommittee of the Bankruptcy Committee of the Conference. The subcommittee was composed of District Judge Edward Weinfeld of the southern district of New York, Chairman, Chief Judge Bailey Aldrich of the first circuit, and Circuit Judge Albert V. Bryan of the fourth circuit. The subcommittee had the benefit of the recommendations of

Messrs. Robert J. Myers and John P. Jones of the Department of Health, Education, and Welfare, Mr. Charles A. Horsky, then chairman of the National Bankruptcy Conference, Reginald W. McDuffee, referee in bankruptcy at Savannah, Ga., president of the National Conference of Referees in Bankruptcy, Elmore Whitehurst, Dallas, Tex., editor of the Conference Journal, and Ronald L. Walker, referee in bankruptcy at Los Angeles, Calif.

"S. 1316 provides (1) that the term of office of a full-time referee shall be increased from 6 years to 12 years and the term of office of a part-time referee to remain at 6 years as at present. Section 1 of S. 1316 amends section 34a of the Bankruptcy Act to increase the term of office of a full-time referee to 12 years.

"Section 2 provides a more liberal retirement plan for referees, in general comparable to the retirement benefits now provided for Members of Congress based on a contribution of 7½ percent of the base pay to be made by the employee and a matching 7½ percent contribution by the employing agency and providing a benefit rate of 2½ percent per year. This section would amend subsections (a) and (c) of section 8334 of title 5, United States Code. It would also amend subsection (c) of section 8339 of title 5, United States Code, to provide for computation of referees' service by multiplying 2½ percent of the 'high-five' average salary by the years of such service.

"Section 3 imposes a compulsory retirement age of 75 years under certain conditions. This section would amend section 8335 of title 5, United States Code, so as to require compulsory retirement of a referee upon reaching the age of 75 years and completing the term of office under which he is serving upon the effective date of this amendment.

"Section 4 of S. 1316 provides that notwithstanding any other provision of law, retirement benefits resulting from enactment of this act shall be paid from the civil service retirement and disability fund.

"Section 6 of S. 1316 provides that the amendments shall take effect on the first day of the first month which begins more than 60 days after the enactment of the bill.

"Referees in bankruptcy are judicial officers and are paid salaries ranging up to $22,500 a year for full-time service and $11,000 a year for part-time service. They are called upon to decide complex issues of law and fact in cases which may involve millions of dollars and the property rights of many people. In this connection it should be noted that in the fiscal year 1967, the 212 referees in office received a total of 208,329 cases, including corporate arrangements, real estate arrangements, corporate reorganization proceedings, and straight bankruptcy asset cases. We believe that it is most important to attract to these positions the best qualified members of the legal profession.

"Referees by reason of their judicial function must be persons of mature age and judgment, with enough experience in the law to have attained both judicial capacity and judicial temperament. It is obvious that the average lawyer will not have attained these attributes much under the age of 40 or 45 years. At the present time only 7 percent of the referees holding office are under 40 years of age.

"Moreover, nearly two-thirds of the referees in office have no previous Federal Government service which would count toward retirement. Upon accepting appointment, a fulltime referee must give up his law practice entirely, and upon retirement is prohibited from reentering the practice of bankruptcy law. The latter restriction is severe but necessary considering the professional ethics involved.

"In contrast to the situation of the referee in bankruptcy, the average career civil servant enters the service at an early age, often directly from high school or college. The average civil service employee has an opportunity to earn a fully adequate retirement while the referee in bankruptcy has little chance to do so because of his insecurity of tenure and the mature age at which he can expect to meet the prerequisites of judicial service. Federal judges, on the other hand, may retire on full pay at age 70 after 10 years of service and they hold office 'during good behavior.' In other words, they have lifetime appointments.

"It is the view of the Judicial Conference that there should be a compulsory retirement for referees at age 75, the point at which most professional people have passed their more productive years. This seems equitable and in the best interests of the service provided referees can at the same time be given a more adequate retirement plan similar to that now provided for Members of Congress.

"This bill has the support of the National Bankruptcy Conference, the American Judicature Society, the National Conference of Referees in Bankruptcy, and many State and local Bar associations. We earnestly recommend the favorable consideration of S. 1316.

"Sincerely yours,

"WILLIAM E. FOLEY,
"Deputy Director."

"U.S. CIVIL SERVICE COMMISSION,
"Washington, D.C. April 17, 1968.

"Hon. JAMES O. EASTLAND,
"Chairman, Committee on the Judiciary, U.S. Senate.

"DEAR MR. CHAIRMAN: This refers further to your request for Commission report on S. 1316, a bill to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

"Section 1 of the bill would amend section 34a of the Bankruptcy Act to lengthen the present 6-year terms of office for full-time referees in bankruptcy. Under this amendment, the terms of office for full-time and part-time referees would be fixed at 12 years and 6 years, respectively, under each appointment and reappointment. We would not oppose this change.

"Sections 2 and 4 of the bill would amend sections 8334(a) and 8339(c) of title 5, United States Code to provide for referees higher contributions and a more generous annuity formula than are applicable to employees generally. The deduction rate for referees would be increased prospectively from 6½ to 7½ percent (same rate as for Members of Congress), and correspondingly higher matching amounts would be contributed by the employing agency. In lieu of the present annuity formula which provide 1½ percent of the highest 5-year average salary per year of service for the first 5 years, plus 1¾ percent per year for the second 5 years, plus 2 percent per year for years in excess of 10, each year of referee service (both past and future) would count at 2½ percent. In effect, 2½ percent would replace 1½ percent, 1¾ percent, and 2 percent—in that order—so that if referee service totaled at least 10 years, any other service would be counted at 2 percent. The maximum annuity would remain at 80 percent of average salary.

"In addition to the direct increase in the annuity computation formula, the bill indirectly makes available another benefit. The retirement law now provides that when an employee has performed sufficient service to entitle him to the maximum annuity (41 years and 11 months if the salary is $5,000 or more), all deductions withheld during subsequent service, plus 3 percent compound interest, are applied toward any deposit due for service during which deductions were not currently withheld or for the repayment of a refund of deductions previously received. Any balance not so required is deemed to be voluntary contributions, which may be paid in cash at retirement or used to purchase additional annuity. In effect, the employee ceases to contribute to the cost of his regular annuity when he has served nearly 42 years.

"The 2½-percent annuity formula would reduce to 32 years the time required to reach the 80-percent maximum. For those referees who now have over 32 but less than 42 years of such service, the annuity to which presently entitled would be increased to 80 percent; in addition; 'excess' deductions would be established on past service in excess of 32 years, and would continue on all future service. Such referees would, in effect, contribute nothing to the cost of their liberalized benefits. Those with less than 32 years would reach the maximum 10 years sooner, and thereafter, in effect, no longer contribute. And finally, any referees who now have served over 42 years would not have their annuities increased, but their 'excess' deductions under present law would be increased by deductions withheld during 10 additional years of prior service, and all future deductions at the higher rate would be 'excess'.

"Prospectively raising the deduction and deposit rate for referee service by 1 percent would defray only a fraction of the cost of the increased annuities resulting from the 2½-percent benefit formula. The level annual cost of the benefit liberalization proposed is estimated to be about 5 to 6 percent of the total salaries of all referees. If the matching principle apparently contemplated were to be followed, an increase of 2½ to 3 percent of salary in the contribution rate payable by both referees and the employing agency would be required to finance the higher annuities.

"Section 3 of the bill would amend the civil service retirement law to add a compulsory age retirement provision for referees. The retirement law requires the automatic separation of employees in general at or after age 70 with at least 15 years of service. Certain exceptions to this requirement are incorporated in the law, one of which exceptions covers employees in the judicial branch appointed to hold office for a term of years. Referees fall in this category and are not now subject to any automatic separation requirement. The bill would prospectively provide for the automatic separation of referees at or after age 75 with at least 5 years of service. Referees serving on date of enactment of this provision would be exempt from its operation until completion of their current terms. This change is not objectionable.

"Section 5 of the bill authorizes use of the civil service retirement and disability fund to pay the retirement benefits resulting from its enactment.

"Section 6 specifies the bill's effective date as the first day of the first month which begins more than sixty days after its date of enactment.

"The Commission cannot concur in the creation of this special computation plan for referees. No justification is evident for singling them out to receive a materially higher benefit than allowable under the retirement law to all other officers and employees in the executive and judicial branches of the United States. Discrimination resulting from such enactment would undoubtedly be noted and the precedent so established cited by other officer and employee groups seeking similar treatment. It is therefore urged that the provisions contained in sections 2 and 4 be deleted from the bill.

"The Commission accordingly recommends that favorable consideration not be given S. 1316 in its present form. If amended as suggested, however, by deletion of sections 2 and 4, the Commission would offer no objection to its other provisions which limit appointments of full-time referees and part-time

referees to 12 years and 6 years, respectively, and impose a mandatory retirement age of 75.

"If further consideration is to be given to section 2–5 of the bill, certain technical amendments are necessary to conform the sections to the style of title 5 of the United States Code, enacted into positive law by Public Law 89–554. For example, the style of title 5 does not permit the use, in the text thereof, of such phrases as 'which begins on or after the effective date of this amendment.' Such an effective date provision should appear in a separate section of the bill. The Commission will be happy to furnish such technical assistance in this regard as may be requested.

"The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

"By direction of the Commission:

"Sincerely yours,

"JOHN W. MACY, JR.,
"Chairman."

"U.S. DEPARTMENT OF JUSTICE,
"Washington, D.C., June 19, 1967.

"Hon. JAMES O. EASTLAND,
"Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

"DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1316, a bill to amend the Bankruptcy Act and the civil service retirement law with respect to the tenure and retirement benefits of referees in bankruptcy.

"The bill would increase the terms of appointments and reappointments of full-time referees in bankruptcy from 6 to 12 years. The terms of part-time referees would continue to be 6 years. Retirement deductions would be increased from 6½ to 7½ percent and annuities would be increased by the use of the 2½-percent formula now applicable to legislative employees instead of the lower rate now used for referees and Government employees generally. A new subsection numbered (f) would be added to section 8335 of title 5, United States Code, to provide for mandatory retirement upon reaching 75 years of age and completion of at least 5 years of service. For those serving on the date of enactment, the completion of their terms would be substituted for the 5-year requirement.

"Whether or not this legislation should be enacted involves policy considerations as to which the Department of Justice makes no recommendation.

"The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

"Sincerely,

"RAMSEY CLARK,
"Attorney General."

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. CARLSON. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I support the position of the Senator from Kansas. In addition, it should be pointed out that under the existing law it takes 41 years and a fraction of service for a referee to receive the maximum amount of annuity to which he would be entitled. But as a result of the formula under this bill, if he served 40 years not only would he get a substantial increase in his pension rights but he would also collect retroactively a refund on the payments made for the preceding 8 years. Once this formula is adopted he would reach the maximum after 32 years of service. Not only would he get the refund of future payments, but he could collect a retroactive refund on all payments made in the preceding 8 years. This refund would be in addition to the increase in his benefits.

The fund is already $50 billion out of balance. Certainly this is not the time in which to pass a bonus for this small group of employees.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. CARLSON. I yield.

Mr. BURDICK. Mr. President, will my able friend, the Senator from Kansas, acknowledge that the section requiring retirement at age 75 is a reasonable requirement?

Mr. CARLSON. The present civil service requirement I believe requires that a person retire at the age of 70. This would give a man an additional 5 years.

Mr. BURDICK. The Senator would consider that age 70 would be reasonable?

Mr. CARLSON. Yes, I would.

Mr. BURDICK. The record shows conclusively that a referee does not have the understanding or the qualifications to be a referee until he is about the age of 40 to 45.

Mr. CARLSON. That is correct.

Mr. BURDICK. In order to get his maximum benefits—80 percent of his salary—under the present system, one who is 45 years of age would have to live and work until the age of 87. If we reduce the retirement age to 75, we would have to increase the annuity. We cannot have it both ways. That is why we have asked for an increase in the annuity.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BURDICK. I will yield in a moment. I want to pursue the second question before I yield.

The Senator says that there is an additional benefit for those who serve the 42 years in that they get their contributions plus 3 percent.

How many people are we talking about? With reference to people who start serving as referees at age 45 and serve for 42 years, how many are still living at age 87? We have a record here showing three people at the ages of 84, 87, and 89. They should not be there in most cases.

When we are talking about extra benefits, we are talking about an infinitesimal sum. Further, we are dealing only with 217 people. And the bankruptcy courts are loaded. Their caseload has increased twentyfold since 1946.

Mr. CARLSON. My distinguished colleague knows how we have battled in the Post Office and Civil Service Committee to protect the civil service retirement fund.

On occasion after occasion, we have opposed the inclusion of many groups. Many people have been brought into civil service retirement who have some connection with the Government. We have opposed it.

We propose here to open up the field to a new group.

Mr. BURDICK. We have to do something to attract people from the legal profession. This position requires men of experience and skill. We will not get highly qualified people who are willing to leave their law practices if the position is not made more attractive than at present. We cannot require them to retire at age 75 when they start later in life. We either have to retire them later or increase the annuity, one or the other.

Mr. CARLSON. Or increase the salaries.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BURDICK. I yield.

Mr. WILLIAMS of Delaware. I am surprised at the statement that a man is not qualified for the position until he reaches the age of 45—and I do not know how many referees are between the ages of 40 and 45, but I point out that 7 percent of them are below the age of 40.

Are we being told that 7 percent of the referees are unqualified and not fit to hold office. If so, why were they appointed?

Mr. BURDICK. I did not say they were not qualified. I said that is the age limit.

Mr. WILLIAMS of Delaware. Perhaps we should change the practice. I agree fully that those who are over 80 should be retired. Reappointments near that age are wholly unjustified and should not have been made.

Mr. BURDICK. To require retirement at age 75, we would have to increase the annuity. Otherwise, a man would have to work to age 80 before he would qualify for 80 percent of his salary.

Mr. WILLIAMS of Delaware. Since when do we have to retire every public servant at 80 percent of his salary to get rid of him? If a man has been working in private practice until he reaches the age of 50 he should have been able to set something aside. Otherwise, I would say that the man may not be qualified for the job.

Certainly, we should not be required to put everybody on the pension roll at 80 percent of his salary just because he holds public office—not even if he is a Member of Congress.

Mr. BURDICK. We are talking about select people that have a great reponsibility in this country. Millions of dollars are being handled in the bankruptcy courts.

Last year the bankruptcy courts handled over 208,000 cases. In 1946, they handled about 10,000 cases.

This is an important position. Many of our people are affected by what happens in these courts and by the amount of money handled by these referees. These are not ordinary men. Some of them have as much judicial experience as judges, and we give judges retirement at full pay for life at age 70 after 10 years of service.

Mr. WILLIAMS of Delaware. The Senator is not trying to say that these referees all have judicial experience, is he? In fact, some of them have had very little experience in court practice.

I do not want to get personal and name any of them, but I could name some who have not had much experience.

Mr. BURDICK. The men are experienced men.

Mr. WILLIAMS of Delaware. But they are not such a select bunch.

Mr. BURDICK. We are only dealing with 217 people, and the impact on the fund will be only minimal.

Mr. CARLSON. Mr. President, I have no quarrel with the referees in bank-

ruptcy. I contend that they are a very qualified group who are serving our constituency and people very well. However, I do contend that it is poor policy to come in and attempt to put a new group on civil service retirement without having the matter come before the committee for hearings. It might be that we would want to do this after hearings have been held. We have on many other occasions held hearings when people tried to get included in the civil service retirement program. We have opposed it.

I think this is a very inopportune time, with all of the disturbances that we have in the schools and colleges, to begin to expand the civil service retirement program.

The first thing we know, we will have a bill over here—as has been reported in the newspapers—to increase our own civil service retirement. I will oppose it. I have consistently done so.

I think that now is the wrong time to do it. I sincerely hope that this provision will be stricken from the bill.

I would be pleased to have the Civil Service Committee meet and consider this matter if our chairman concurs.

I hope the provision is stricken from the bill.

Mr. BURDICK. Mr. President, this is not only my bill. This measure was proposed by the Judicial Conference. It has the support of the American Bar Association, the National Bankruptcy Conference, the American Judicature Society, the National Conference of Referees in Bankruptcy, and many State and local bar associations.

We have to do something to attract better men to this portion of the judiciary.

If we agree to the pending amendment, we will not be doing this, because we will be requiring a man to take office and serve under the present retirement system and retire at age 75 and get 50 to 60 percent of the benefits. If the amendment is agreed to, it will kill the bill.

We should make some start in upgrading these referees, who have increasing responsibilities. Over the last 20 years their workload has increased twentyfold. This is important to our country.

Second, the impact upon the fund would be minimal. We are dealing only with 220 people, 40 of whom are on a part-time basis.

I ask that the amendment be defeated.

The PRESIDING OFFICER (Mr. HART in the chair). The question is on agreeing to the amendment of the Senator from Kansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. YOUNG of Ohio (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Utah [Mr. Moss]. If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Alaska [Mr. GRUENING], the Senator from Alabama [Mr. HILL], and the Senator from Hawaii [Mr. INOUYE] are absent on official business.

I also announce that the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Oklahoma [Mr. HARRIS], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], and the Senator from Washington [Mr. MAGNUSON] would vote "nay."

On this vote, the Senator from Rhode Island [Mr. PASTORE] is paired with the Senator from Oregon [Mr. MORSE]. If present and voting, the Senator from Rhode Island would vote "yea," and the Senator from Oregon would vote "nay."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] are necessarily absent.

The Senator from Massachusetts [Mr. BROOKE], the Senator from New York [Mr. JAVITS], and the Senator from California [Mr. MURPHY] are detained on official business.

If present and voting, the Senator from Massachusetts [Mr. BROOKE], the Senator from New York [Mr. JAVITS], the Senators from California [Mr. KUCHEL and Mr. MURPHY], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

The result was announced—yeas 42, nays 27, as follows:

[No. 173 Leg.]

YEAS—42

Aiken	Fannin	Monroney
Allott	Fong	Mundt
Baker	Gore	Pearson
Bennett	Griffin	Percy
Bible	Hansen	Prouty
Boggs	Hatfield	Russell
Byrd, Va.	Hickenlooper	Smathers
Cannon	Hruska	Smith
Carlson	Jordan, Idaho	Stennis
Case	Lausche	Symington
Cotton	Mansfield	Thurmond
Curtis	McClellan	Tower
Dirksen	Metcalf	Williams, Del.
Dominick	Miller	Young, N. Dak.

NAYS—27

Bartlett	Eastland	Mondale
Bayh	Ellender	Muskie
Brewster	Hart	Nelson
Burdick	Holland	Proxmire
Byrd, W. Va.	Hollings	Randolph
Church	Jackson	Spong
Clark	Long, La.	Talmadge
Cooper	McGee	Tydings
Dodd	McIntyre	Williams, N.J.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Young of Ohio, for.

NOT VOTING—30

Anderson	Javits	Morse
Brooke	Jordan, N.C.	Morton
Ervin	Kennedy, Mass.	Moss
Fulbright	Kennedy, N.Y.	Murphy
Gruening	Kuchel	Pastore
Harris	Long, Mo.	Pell
Hartke	Magnuson	Ribicoff
Hayden	McCarthy	Scott
Hill	McGovern	Sparkman
Inouye	Montoya	Yarborough

So Mr. CARLSON'S amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If no amendment is to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

MOTION TO RECOMMIT

Mr. BURDICK. Mr. President, is a motion to recommit in order?

The PRESIDING OFFICER. Such a motion is in order.

Mr. BURDICK. Mr. President, I move that the bill be committed to the Committee on Post Office and Civil Service with instructions to report back in 10 days.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota. [Putting the question.]

Mr. DIRKSEN and Mr. ALLOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, is this a motion to send this bill to the Committee on Post Office and Civil Service?

The PRESIDING OFFICER. Yes.

Mr. DIRKSEN. The bill was reported by the Committee on the Judiciary. There ought to be an assignment of a reason here. A motion to recommit is debatable. The Senator from North Dakota should undertake to tell the Senate why the designation is to be changed and the bill sent to the Committee on Post Office and Civil Service.

Mr. BURDICK. Because Senators on the side of the aisle of the Senator from Illinois indicated it should be done.

Mr. DIRKSEN. That does not make any difference. The Administrative Office of the Courts insisted the referees are judicial officers. If that is true this matter properly belongs in the Committee on the Judiciary. An effort was made to place a statement on the desk of each Senator this morning. The Committee on Post Office and Civil Service, on the other hand, takes the position that these are administrative officers.

Now, if they are judicial officers this matter should go back to the Committee on the Judiciary, if anybody wants to commit it; otherwise it can go to the Committee on Post Office and Civil Service.

Mr. BURDICK. It makes no difference.

Mr. DIRKSEN. I shall vote against a motion to send the bill to the Committee on Post Office and Civil Service in view of the fact that the Administrative Office of the Courts has taken that position. They sought to affirm their position and it was set forth in a memorandum given to me in connection with the bill.

I do not want to see a misreference of this bill under a motion to recommit.

Mr. MONRONEY. Mr. President, as chairman of the Committee on Post Office and Civil Service, we have had the matter of preferential treatment of all Government employees in the various classes of Government service before us many times for discussion. We have tried to treat Government employees, because they are generally long-term employees, under civil service, and with a guaranteed tenure, with long periods of credit for retirement. For that reason, we have consistently refused to increase any particular or specific class of Government employee at higher rates of credit for retirement than is given the general category of employees.

Efforts have been made constantly to increase it from 2 to 2½ percent of their attained salary for special groups of employees, for various and sundry reasons, but we have held to the fact that the 2½ percent which is in the congressional retirement program and has been since the Monroney Act of 1946 is a consideration because of the average short tenure of congressional service of the fixed pay status of congressional service, and because the lack of accredited time that goes with many.

I do not wish to say that we are on uncertain service, because we all hope our service will be of long tenure, but once we break this line of 2½ percent per year of our salary, we will then have it asked for by every category in Government. Thus, I do not believe that we can limit this to a few referees of bankruptcy if we give it to them.

The next step will be that all the vast numbers, and some of them run into the hundreds of thousands in their unions, will aggressively seek this.

I need not remind the Senate of the deficit we now have in the funds reserved and put aside in the trust funds for the Federal retirement program.

I invite the attention of the Senate to the fact that when this becomes a question of keeping it on a cash-flow basis on congressional retirement programs, we will find it has always operated in the black.

One reason is that Members of Congress do not like to retire unless they have to, so that we do not have early retirement problems, or desire to retire when we are over 65. I happen to be over 65 years of age, and I have no desire to retire. I do not think many other Senators do, either.

For that reason, we are in a different category. But our books balance. There is no deficit on our books. For that reason, we will make the mistake of a lifetime to reopen this. The Senate has spoken with decision in regard to the Carlson amendment. Many Senators who would have voted with the Senator did not receive the explanation that a "yea" vote was to strike the provision that was in the bill that begins, for the first time, to expand this into other categories of government. For that reason, I doubt the wisdom of recommitting the bill to the Committee on Post Office and Civil Service, because that is the only thing in the bill that pertains to our jurisdiction.

The Senate at large has spoken. We might as well go ahead and pass the legislation.

Mr. CARLSON. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I am happy to yield to the Senator from Kansas.

Mr. CARLSON. Mr. President, I wish to state that I appreciate very much the remarks of the distinguished chairman of the Committee on Post Office and Civil Service. I knew that would be his position. I had no desire to offer any amendment to the bill affecting referees in bankruptcy but I felt this did affect the committee. Its positions have been generally agreed upon in committee on the inclusion of people not, as I would say, other than administrative people. I think it would have been a tragic error for us to start opening up such a fund for this group already $50 billion in the red.

Mr. MONRONEY. I thank my distinguished colleague. He is the ranking minority member on the committee and has consistently maintained that position, and has done so through the years.

Mr. BURDICK. Mr. President, I ask unanimous consent to withdraw the motion to recommit to the Committee on Post Office and Civil Service.

The PRESIDING OFFICER. The Senator has that privilege as a matter of right. Does the Senator withdraw the motion?

Mr. BURDICK. Yes. I withdraw it.

I move to recommit the bill to the Committee on the Judiciary.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota.

The motion was agreed to.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota to recommit the bill to the Committee on the Judiciary.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Alaska [Mr. GRUENING], the Senator from Alabama [Mr. HILL], and the Senator from Hawaii [Mr. INOUYE] are absent on official business.

I also announce that the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Oklahoma [Mr. HARRIS], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Washington [Mr. MAGNUSON] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] are necessarily absent.

The Senator from Massachusetts [Mr. BROOKE], the Senator from New York [Mr. JAVITS], and the Senator from California [Mr. MURPHY] are detained on official business.

If present and voting, the Senator from Massachusetts [Mr. BROOKE], the Senator from New York [Mr. JAVITS], the Senators from California [Mr. KUCHEL and Mr. MURPHY], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

The result was announced—yeas 62, nays 9, as follows:

[No. 174 Leg.]

YEAS—62

Aiken	Ellender	Mundt
Allott	Fannin	Muskie
Baker	Fong	Nelson
Bartlett	Gore	Pearson
Bayh	Hansen	Percy
Bennett	Hart	Prouty
Bible	Hatfield	Proxmire
Boggs	Hickenlooper	Randolph
Burdick	Holland	Smathers
Byrd, Va.	Hollings	Smith
Byrd, W. Va.	Hruska	Spong
Cannon	Jackson	Symington
Carlson	Jordan, Idaho	Talmadge
Case	Long, La.	Thurmond
Church	Mansfield	Tower
Clark	McClellan	Tydings
Curtis	McGee	Williams, N.J.
Dirksen	McGovern	Williams, Del.
Dodd	Metcalf	Young, N. Dak.
Dominick	Miller	Young, Ohio
Eastland	Mondale	

NAYS—9

Brewster	Griffin	Monroney
Cooper	Lausche	Russell
Cotton	McIntyre	Stennis

NOT VOTING—29

Anderson	Javits	Morton
Brooke	Jordan, N.C.	Moss
Ervin	Kennedy, Mass.	Murphy
Fulbright	Kennedy, N.Y.	Pastore
Gruening	Kuchel	Pell
Harris	Long, Mo.	Ribicoff
Hartke	Magnuson	Scott
Hayden	McCarthy	Sparkman
Hill	Montoya	Yarborough
Inouye	Morse	

So the motion to recommit the bill to the Committee on the Judiciary was agreed to.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be no further votes today. I am trying to work out with the distinguished Sena-

tor the possibility of voting on treaties in the next day or so, but for today there will be no further voting.

PROPOSED AUTHORIZATION FOR EXPORT-IMPORT BANK TO USE ITS LENDING AUTHORITY FOR CERTAIN LOANS, GUARANTEES, AND INSURANCE

Mr. BYRD of Virginia. Mr. President, I note from the CONGRESSIONAL RECORD this morning that S. 3218 will be before the Senate this week. I would like to comment on S. 3218 today.

Mr. President, S. 3218 would authorize the Export-Import Bank to use $500 million of its lending authority for loans, guarantees and insurance of export transactions which, in the judgment of the Directors of the Bank, "do not meet the test of reasonable assurance of repayment."

This requirement—reasonable assurance of repayment—has been a basic part of the Bank's charter since 1945.

The setting aside of this requirement is sought in an effort to improve our Nation's balance of payments.

While S. 3218 limits the amount of commitments under the new program to $500 million, it nevertheless makes it possible for as much as $2 billion in gross commitments to be outstanding without meeting the tests of "reasonable assurance of repayment."

The bill provides further that any losses under the program would be borne by the Bank up to an aggregate amount of $100 million.

But losses which exceed that amount would be borne by the Treasury. The bill authorizes to be appropriated such amounts as may be required to cover any losses incurred by the Bank exceeding the $100 million figure.

The bill also provides that all guarantees and insurance issued by the Bank should be considered contingent obligations backed by the full faith and credit of the U.S. Government.

S. 3218 is a sharp—and I believe radical—departure from the statutory charter of the Bank which provides that the Bank's export assistance be limited to those export transactions which offer "reasonable assurance of repayment."

It seems to me, Mr. President, that this legislation is unwise.

The United States is facing a financial crisis. The Chairman of the Federal Reserve Board has so stated and so has the Chairman of the President's Council of Economic Advisers.

The President himself, his Secretary of the Treasury, his Budget Director, and virtually all other administration officials have been demanding a 10-percent increase in taxes. They feel the Government should dip deeper into the pockets of the American wage earner and extract 10 percent more money to operate the Government.

Even if this is done, we will end the current fiscal year on June 30 with a deficit of $20 billion; even if the 10-percent tax increase is enacted, we face a deficit of $15 billion next year.

Yet, S. 3218 seeks to drastically liberalize the Export-Import Bank regulations so that American tax dollars can be used to the extent of $2 billion to guarantee or insure transactions even though there is no "reasonable assurance" of repayment.

Another aspect of this concerns me.

If loans can be made without "reasonable assurance of repayment" does not this open up the possibility of such loans being made on a political basis?

The proposed drastic liberalization of the Export-Import Bank Act is done in the name of improving the balance-of-payments position of our Government. That is a worthy objective. But the best way to tackle the balance-of-payments problem is by controlling inflation in this country, in which Government spending is the major factor.

I think it is important that this country make every reasonable effort to increase its export trade. The loans and guarantees authorized by this legislation, however, would adversely affect our balance of payments if they are not repaid. And, of course, the chances of their not being repaid are much greater than the normal loans made by the Bank.

Last August, the Senate expanded the Bank's lending authority by $4.5 billion, to a new ceiling of $13.5 billion, because of the significant increases in new trade opportunities which were becoming available in Common Market countries and elsewhere as a result of the Kennedy round negotiations. Presumably, these transactions qualify under existing lending rules.

I quote from the 1967 report of the Banking and Currency Committee:

> During the past year, the Bank has experienced a very substantial increase in its business, and its annual authorizations are believed likely to continue at a relatively high level . . . in view of the Kennedy round results, the proposed new ceiling of $13.5 billion might be reached well before the time originally anticipated by the Bank in preparing its request.

It would appear, therefore, that there is likely to be more applications which qualify under the Bank's traditional lending criteria than can be accommodated under the ceiling of $13.5 billion.

Why, with all the sound transactions, should up to $2 billion of the Bank's money be diverted to marginal transactions which carry with them a high risk of default?

There is nothing in the bill which requires the Bank to give priority to low-risk transactions and neither is there a requirement that the Bank establish priorities among the high-risk transactions it finances so that those which offer the best assurances of repayment are considered first.

As a businessman and as one who through the years has been an exporter, I strongly favor trade between the nations of the world.

I support the Export-Import Bank. Through the years, it has been well managed, and I commend its management.

But I feel it is a mistake to change the basic requirement of the Export-Import Bank Act; namely, that the Bank's export assistance should be limited to those transactions which offer "reasonable assurance of repayment." It is already the bank of last resort for many exporters.

The Bank derives its funds from the American taxpayer.

To authorize it to make loans where there is no reasonable assurance of repayment seems to me to be unwise. Hundreds of businesses could spring up overnight to take advantage of this bonanza. And how would the bank draw the line—unless it drew it along the lines of political pressure?

This is a matter of policy involving vast sums of U.S. tax dollars.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive J, 90th Congress, first session; Executive N, 90th Congress, first session; and Executive D, 89th Congress, first session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CONVENTIONS WITH BRAZIL, EXECUTIVE J, 90TH CONGRESS, FIRST SESSION; FRANCE, EXECUTIVE N, 90TH CONGRESS, FIRST SESSION; AND THE REPUBLIC OF THE PHILIPPINES, EXECUTIVE D, 89TH CONGRESS, FIRST SESSION

The Senate, as in Committee of the Whole, proceeded to consider the following conventions and protocols, which were read the second time, as follows:

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the United States of Brazil desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

Taxes covered

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States of Brazil, all taxes covered by the Federal Income Tax Law applicable to individual taxpayers and legal persons which may result from the application of Brazilian Income Tax regulations, except for the tax imposed under Article 295 (tax on activities of minor importance) and Article 299 (excess remittance tax) of the Brazilian Income Tax Regulations consolidated by Decree No. 58,400 of May 10th, 1966 (hereinafter called "Brazilian tax").

(b) In the case of the United States of America, the Federal income tax, including

surtax, but not including the taxes imposed under section 531 (improperly accumulated earnings tax) and section 541 (personal holding company tax) of the Internal Revenue Code (hereinafter called "United States tax").

(2) The present Convention shall also apply to taxes substantially similar to those covered by paragraph (1) of this Article which are subsequently imposed in addition to, or in place of, existing taxes.

(3) For the purpose of Article 6, this Convention shall also apply to taxes of every kind, and those imposed at the national, state, or local level.

ARTICLE 2

General definitions

(1) In the present Convention, unless the context otherwise requires:

(a) The term "Brazil" means the United States of Brazil;

(b) The term "United States" means the United States of America, and when used in a geographical sense means the States thereof and the District of Columbia;

(c) The terms "one of the Contracting States" and "the other Contracting State" mean Brazil or the United States as the context requires;

(d) The term "tax" means Brazilian tax or United States tax as the context requires;

(e) The term "person" comprises an individual, a corporation and any other body of individuals or persons;

(f) The term "corporation" or "company" means any body corporate, association or joint stock company or other entity which is treated as a body corporate for tax purposes;

(g) The term "United States corporation" or "corporation of the United States" means a corporation which is created or organized under the laws of the United States or any State thereof or the District of Columbia;

(h) The term "Brazilian corporation" or "corporation of Brazil" means a company, as defined in subparagraph (1)(f) of this Article, created or organized under the laws of Brazil and maintaining its administrative headquarters in Brazil;

(i) The term "resident of one of the Contracting States" means an individual who is a resident of that Contracting State for purposes of the tax of that Contracting State and includes an individual acting as a partner or fiduciary to the extent that the income derived by such individual in that capacity is taxed as the income of a resident;

(j) The terms "resident or corporation of one of the Contracting States" and "resident or corporation of the other Contracting State" mean a resident or corporation of Brazil or a resident or corporation of the United States, as the context requires;

(k) The term "competent authority" means:

(i) in Brazil, the Minister of Finance or his authorized representatives;

(ii) in the United States, the Secretary of the Treasury or his delegate.

(l) The term "State" means any national State, whether or not one of the Contracting States.

(2) As regards the application of the present Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

ARTICLE 3

General rules of taxation

(1) A resident or corporation of one of the Contracting States shall be taxable by the other Contracting State only on income derived from sources within that other Contracting State. For this purpose, the rules set forth in Article 5 shall be applied to determine the source of income.

(2) A resident or corporation of one of the Contracting States may be taxed by the other Contracting State on income taxable under paragraph (1) only in accordance with the limitations set forth in the present Convention. Any income to which the provisions of the present Convention are not expressly applicable shall be taxable by each of the Contracting States in accordance with its own law. The provisions of the present Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded (a) by the laws of one of the Contracting States in the determination of the tax imposed by that State or (b) by any other agreement between the Contracting States.

(3) Except as provided in paragraph (4) of this Article, a Contracting State may tax an individual who is a citizen or resident of that Contracting State (whether or not such person is also a resident of the other Contracting State) or a corporation of that Contracting State as if the present Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect—

(a) the benefits conferred by a Contracting State under Articles 4 (Relief from Double Taxation) and 6 (Nondiscrimination);

(b) the benefits conferred by the United States under Articles 7 (Investment Credit) and 22 (Deduction for Charitable Contributions); and

(c) the benefits conferred by a Contracting State under Articles 18 (Teachers), 19 (Students and Trainees), 20 (Governmental Salaries), and 21 (Rules Applicable to Personal Income Articles) upon individuals, other than citizens of, or individuals having immigrant status, in that Contracting State.

ARTICLE 4

Relief from double taxation

Double taxation shall be avoided in the following manner:

(1) The United States shall allow to a citizen, resident or corporation of the United States as a credit against its tax specified in subparagraph (1)(b) of Article 1 the appropriate amount of taxes paid to Brazil and, in the case of a United States corporation owning at least 10 percent of the voting power of a corporation resident in Brazil, shall allow credit for the appropriate amount of taxes paid to Brazil by the corporation paying such dividends with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid to Brazil but shall not exceed that proportion of the United States tax which net income from sources within Brazil bears to the entire net income. For the purpose of applying the United States credit in relation to taxes paid to Brazil, the rules set forth in Article 5 shall be applied to determine the source of income.

(2) Brazil shall allow to a resident or corporation of Brazil as a credit against its tax specified in subparagraph (1)(a) of Article 1 the appropriate amount of taxes paid to the United States and, in the case of a corporation of Brazil owning at least 10 percent of the voting power of a United States corporation, shall allow credit for the appropriate amount of taxes paid to the United States by the corporation paying the dividends with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based on the amount of tax paid to the United States but shall not exceed that proportion of Brazilian tax which net income from sources within the United States bears to the entire net income subject to Brazilian tax. For the purpose of applying the Brazilian credit in relation to taxes paid to the United States, the rules set forth in Article 5 shall be applied to determine the source of income.

ARTICLE 5

Source of income

For purposes of Articles 3 and 4:

(1)(a) Except as provided in subparagraph (b)—

(i) dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State; and

(ii) dividends paid by any other corporation shall be treated as income from sources outside that Contracting State.

(b) Dividends paid by any corporation shall be treated as income from sources within a State if such corporation—

(i) had a permanent establishment in that State, and

(ii) derived more than 85 percent of its gross income from sources within that State for a three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence).

(2)(a) Except, as provided in subparagraph (b), interest paid by a Contracting State, including any local government thereof, or by a resident or corporation of that Contracting State shall be treated as income from sources within that Contracting State; and interest paid by any other person shall be treated as income from sources outside that Contracting State.

(b) Interest paid by a resident or corporation of any State with a permanent establishment in another State directly out of the funds of such permanent establishment on indebtedness incurred for the sole use of, or on banking deposits made with, such permanent establishment shall be treated as income from sources within the State in which such permanent establishment is located.

(3) Royalties paid by a president or corporation of one of the Contracting States for the use of, or the right to use, property described in paragraph (2) of Article 14 in such State shall be treated as income from sources within such State.

(4) Income from real property (including gains derived from the sale of such property, but not including interest from mortgages or bonds secured by real property) and royalties from the operation of mines, quarries, or other natural resources shall be treated as income from sources within the State in which such property is located.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within the country in which such property is located.

(6) Income received by an individual for his performance of personal services (either as an employee or in an independent capacity) or for furnishing the personal services of another person and income received by a corporation for furnishing the personal services of its employees or others shall be treated as income from sources within the State in which such services are performed. If services are performed partly within and partly outside a State, income from the performance or furnishing of such services shall be treated as income from sources partly within and partly outside that State. Compensation for personal services (including private pensions and annuities paid in respect of such services) performed aboard ships or aircraft operated by a resident or corporation of a Contracting State and registered in that Contracting State shall be treated as income from sources within that Contracting State, if rendered by a member of the regular complement of the ship or aircraft.

(7) Income from the purchase and sale of personal (movable) property shall be treated as income from sources within the State in which such property is sold.

(8) In the case of income earned by a person from the sale of personal property produced in whole or in part by such person in one State and sold in another State, that portion of the income attributable to production shall be treated as income from sources in the State in which such property was produced while that portion attributable to the act of sale shall be treated as income

from sources in the State in which such property was sold.

(9) Industrial and commercial profits which are attributable to a permanent establishment situated in one of the Contracting States, including income dealt with in Articles 12, 13, 14 or 15 which is effectively connected with such permanent establishment, shall be treated as income from sources within such Contracting State. For the purposes of this Convention, to determine whether income is effectively connected with a permanent establishment, the factors taken into account shall include whether the income is derived from assets used in or held for use in the conduct of such trade or business, or the activities of such trade or business were a material factor in the realization of the income. In determining whether an asset is used in or held for use in the conduct of such trade or business or whether the activities of such trade or business were a material factor in realizing an item of income, due regard shall be given to whether or not such asset or such income was accounted for through such trade or business.

(10) The source of any item of income to which the provisions of this Article are not expressly applicable shall be determined by each of the Contracting States in accordance with its own law.

ARTICLE 6

Nondiscrimination

(1) A national of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a national of that other Contracting State who is resident therein.

(2) A permanent establishment which a national or corporation of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than is a national or corporation of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging either Contracting State to grant to nationals of the other Contracting State who are not residents of the former Contracting State any personal allowances or deductions which are by its law available only to residents of that former Contracting State.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned by one or more nationals or corporations of the other Contracting State, shall not be subjected in the former Contracting State to more burdensome taxes than is a corporation of the former Contracting State, the capitol of which is wholly owned by one or more nationals or corporations of that former Contracting State.

ARTICLE 7

Investment credit

(1) The United States shall allow to an eligible investor in an eligible corporation against the taxes specified in subparagraph (1)(b) of Article 1, a credit for investment in Brazil. The credit allowed to an eligible investor shall be based on 7 percent of the appropriate amount of the qualified property placed in service by the eligible corporation during such corporation's taxable year, for use exclusively in Brazil in a qualified trade or business. The purpose of this provision is to extend to investment in Brazil the investment credit allowable for investment in the United States. Qualified property shall include, in general, tangible depreciable property which is either personal property or is used as an integral part of industrial, transportation, communication or other such similar processes, or as a research or storage facility therefor (but not including a building and its structural components). However, in no event shall the amount of the credit exceed the lesser of—

(a) 7 percent of the eligible investor's net new investment in the eligible corporation; or

(b) the amount of United States property acquired by the eligible corporation, during its taxable year in which it placed in service the property for which a credit is allowed, or during the preceding taxable year, and attributed to the eligible investor.

(2) In determining an eligible investor's net new investment in an eligible corporation, there shall be taken into account—

(a) any property transferred by the eligible investor to the eligible corporation as a contribution to capital or in exchange for stock or indebtedness of the eligible corporation, but only to the extent that such property does not represent, directly or indirectly, funds borrowed within Brazil;

(b) the eligible investor's allocable share of creditable reinvested earnings of the eligible corporation;

(c) an appropriate amount with respect to the exhaustion of property placed in service by the eligible corporation for which a credit had previously been allowed under this Article;

(d) the amount of property withdrawn by the eligible investor from the eligible corporation in the taxable year, the preceding taxable year, and the three subsequent taxable years.

(3) For purposes of this Article—

(a) the term "eligible investor" means a resident of the United States or a United States corporation which owns, or is a member of a group of United States residents or corporations which owns, at least 25 percent of the total combined voting power of the stock of an eligible corporation.

(b) the term "eligible corporation" means a United States corporation or a Brazilian corporation if, for its taxable year, it derives at least 80 percent of its gross income, if any, from, and at least 80 percent of its assets (including assets located outside Brazil) are used or held for use in connection with, one or more of the qualified trades or businesses described in subparagraph (c).

(c) the term "qualified trade or business" means, unless otherwise agreed by the competent authorities of the Contracting States, any trade or business conducted within Brazil, and consisting of:

(i) the manufacture or production of personal property (not including the extraction of any mineral, ore, oil or gas, or any processing which does not involve a substantial transformation thereof, but not excluding smelting or refining) or the processing of agricultural or horticultural products or commodities (including but not limited to livestock, poultry, fur-bearing animals or any kind of fish);

(ii) the catching or taking of any kind of fish;

(iii) the marketing of agricultural or horticultural products or commodities (including but not limited to livestock, poultry, fur-bearing animals or any kind of fish);

(iv) the marketing of goods and merchandise to the general public through one or more retail establishments, unless the business consists primarily of the distribution of goods or merchandise manufactured or produced outside Brazil by a person who is a related person with respect to the eligible corporation;

(v) the operation of hotels and related facilities;

(vi) the transportation within Brazil of passengers and/or freight;

(vii) the performance of services rendered as an incident of a trade or business described in (i) through (vi); or

(viii) the performance within Brazil of services utilized either within Brazil or within a less developed country if the services are industrial, financial, technical, scientific, engineering or architectural in nature. The preceding sentence shall not apply if the services are performed for any person who is a related person with respect to the eligible corporation and if the payments made in consideration of such services are not reasonable in amount or are contingent either in whole or in part on the sales, productivity, or profits of the person for whom these services are performed; and

(ix) any other trade or business agreed upon by the competent authorities of both Contracting States.

(d) the term "creditable reinvested earnings" means an amount equal to one-half of the earnings and profits of the eligible corporation for its taxable year, reduced by the amount of any dividends it distributed during such year.

(e) the term "withdrawal" means—

(i) a distribution made by an eligible corporation (or by another corporation conducting in Brazil a trade or business similar or related to a trade or business conducted by the eligible corporation) to the eligible investor (or to a related person) which either—

(A) is not out of earnings and profits;

(B) is in excess of 50 percent of the earnings and profits for the year of distribution; or

(C) is in cancellation or redemption of the stock of the eligible corporation;

(ii) the payment by an eligible corporation of an indebtedness to the eligible investors; and

(iii) the sale or other disposition by the eligible investor of stock or indebtedness of the eligible corporation.

(f) the term "United States property" means any tangible property which has been manufactured, constructed, produced, grown, extracted or created in the United States and thereafter continuously used, if at all, only in the United States.

(4)(a) If the credit allowed for investment in the United States is modified, amended, suspended or terminated, the comparable provisions of this Article shall accordingly be modified, amended, suspended or terminated to the extent necessary to keep this Article consistent with the credit allowed for investment in the United States. The United States shall notify Brazil through diplomatic channels of any such modification, amendment, suspension or termination.

(b) If Brazil considers that any modification or amendment of the credit, as a result of subparagraph (a), materially and adversely affects the credit allowed under this Article, it may, by giving notice to the United States through diplomatic channels, treat such modification or amendment as a suspension of the credit for purposes of subparagraph (6)(b) of Article 30. In such case the Contracting States shall consult together. At any time prior to such consultation, and until such time as a supplementary agreement is reached by the Contracting States, the United States may, by notice given to Brazil through diplomatic channels, suspend the application of Article 7.

(5) The credit provided in paragraph (1) shall be subject to such regulations as are prescribed by the Secretary of the Treasury of the United States or his delegate, after consultation with the competent authority of Brazil, to effectuate the provisions of this Article and to further define and determine the terms, conditions and amounts referred to herein.

ARTICLE 8

Business profits

(1) A resident or corporation of one of the Contracting States shall be exempt from tax in the other Contracting State with respect to its industrial or commercial profits if that resident or corporation has no permanent establishment in that other Contracting State. If a resident or corporation of one of the Contracting States has a permanent establishment in the other Contracting State, tax may be imposed by such other Contracting State on all industrial or commercial profits

of that resident or corporation which are (a) attributable to the permanent establishment or (b) derived from sources within such other State from sales of goods or merchandise of the same kind as those sold, or from other business transactions of the same kind as those effected, through the permanent establishment.

(2) For purposes of paragraph (1)(a) of this Article, there shall in each Contracting State be attributed to a permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In determining the industrial or commercial profits of an enterprise of one of the Contracting States which are taxable in the territory of the other Contracting State in accordance with paragraphs (1) and (2), there shall be allowed as deductions all expenses (including executive and general administrative expenses) which would be deductible if the permanent establishment were an independent enterprise and which are reasonably connected with the profits so taxable.

(4) No profits shall be deemed to be derived merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident or corporation of which it is a permanent establishment, for the account of that resident or corporation.

(5) The term "industrial or commercial profits" means income derived from the active conduct of a trade or business. It includes profits from manufacturing, mercantile, agricultural, fishing, from transportation, communication or extractive activities, from the rental of tangible personal (movable) property, from the furnishing by an individual of the personal services of another person and from the furnishing by a corporation of the personal services of its employees, or others. It also includes income dealt with in Article 12 (dividends and profits), Article 13 (interest), Article 14 (royalties), or Article 15 (real property and natural resource income), but only if the right or property giving rise to such income is effectively connected with a permanent establishment which the recipient, being a resident or corporation of one Contracting State, has in the other Contracting State. It does not include income received by an individual for his performance of personal services (either as an employee or in an independent capacity).

ARTICLE 9

Definition of permanent establishment

(1) The term "permanent establishment" means a fixed place of business through which a resident or corporation of one of the Contracting States engages in trade or business.

(2) The term "a fixed place of business" includes, but is not limited to, an office; a store or other sales outlet; a workshop; a factory; a warehouse; a mine, quarry or other place of extraction of natural resources; a building, construction or installation site.

(3) Notwithstanding paragraph (1) of this Article, a permanent establishment shall not include a fixed place of business used only for one or more of the following activities:

(a) for the processing by another person, whether related or unrelated under arrangements or condition which are or would be made between independent persons, of goods or merchandise belonging to the resident or corporation;

(b) for the purchase, under arrangements or conditions which are or would be made between independent persons, of goods or merchandise for the account of the resident or corporation;

(c) for the storage and/or the delivery of goods belonging to the resident or corporation, other than goods or merchandise;

(i) held for sale by such resident or corporation in a store or other sales outlet; or

(ii) purchased and resold in that Contracting State by the resident or corporation, or by an independent agent or agents for or on behalf of the resident or corporation;

(d) for the collection of information for the resident or corporation;

(e) for advertising, the conduct of scientific research, the display of goods or merchandise, or the supply of information if such activities have a preparatory and auxiliary character in the trade or business of the resident or corporation;

(f) for construction, assembly, or installation projects if the site or facilities are used for such purpose for less than six months.

(4) Even if a resident or corporation of one of the Contracting States does not have a permanent establishment in the other Contracting State under paragraphs (1)–(3) of this Article, nevertheless he shall be deemed to have a permanent establishment in the latter State if he engages in trade or business in that State through an agent who—

(a) has an authority to conclude contracts in the name of that resident or corporation and regularly exercises that authority in the latter State unless the exercise of his authority is limited to the purchase of goods or merchandise; or

(b) maintains in the latter State a stock of goods or merchandise belonging to that resident or corporation from which he regularly makes deliveries.

(5) Notwithstanding paragraph (4) of this Article, a resident or corporation of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it uses the services in that State of a bona fide broker, general commission agent, forwarding agent, custodian or other agent of independent status acting in the ordinary course of his business.

(6) The fact that a corporation of one of the Contracting States controls or is controlled by or is under common control with (a) a corporation of the other Contracting State or (b) a corporation which engages in trade or business in that Contracting State (whether through a permanent establishment or otherwise), shall not be taken into account in determining whether the activities or fixed place of business of either corporation constitutes a permanent establishment of the other corporation.

(7) A resident or corporation of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if that resident or corporation provides the services in the latter State of public entertainers referred to in paragraph (4), Article 17.

(8) If a resident or corporation of one of the Contracting States has a permanent establishment in the other Contracting State at any time during the taxable year, it shall be considered to have a permanent establishment in that other Contracting State for the entire taxable year.

ARTICLE 10

Ships and aircraft

(1) Notwithstanding paragraph (2) of Article 8, income which a resident or corporation of the United States derives from the operation in international traffic of ships or aircraft registered in the United States shall be exempt from tax by Brazil.

(2) Notwithstanding paragraph (2) of Article 8, income which a resident or corporation of Brazil derives from the operation in international traffic of ships or aircraft registered in Brazil shall be exempt from tax by the United States.

ARTICLE 11

Related persons

(1) Where a resident or corporation of a State deriving industrial or commercial profits in one of the Contracting States and any other person are related and where such realted persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to such resident or corporation but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of such resident or corporation for purposes of the present Convention and taxed by that Contracting State accordingly.

(2)(a) A person other than a corporation is related to a corporation if such person participates directly or indirectly, in the management, control or capital of the corporation.

(b) A corporation is related to another corporation if either participates directly or indirectly in the management, control or capital of the other, or if any person or persons participate directly or indirectly in the management, control or capital of both corporations.

ARTICLE 12

Dividends and branch profits

(1) Dividends paid by a company resident in one of the Contracting States to a resident or corporation of the other Contracting State may be taxed by both Contracting States.

(2) For purposes of this Article:

(a) In the case of Brazil, the term "dividends" means income from shares, jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares, including all other forms of distribution of profits made by any type of company or individual enterprise situated in Brazil.

(b) The term "dividends" in the case of the United States includes any item which under the law of the United States is treated as a distribution out of earnings and profits.

(3) The rate of the withholding tax imposed by Brazil on dividends paid by a corporation of Brazil to a corporation of the United States shall not exceed 20 percent, if—

(a) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and

(b) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received).

(4) The rate of the withholding tax imposed by Brazil on profits of a Brazilian branch of a United States corporation shall not exceed the rate described in paragraph (3).

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this Article, the rate of withholding tax on dividends and on branch profits may be increased to the same extent as any reduction below 28 percent in the rate of tax on business profits normally

applicable to all industrial or commercial profits of corporations in Brazil.

(6) Dividends paid by a corporation of one of the Contracting States to a person other than a resident or corporation of the other Contracting State (and in the case of a dividend paid by a Brazilian corporation, to a person other than a citizen of the United States) shall be exempt from tax by the other Contracting State. This paragraph shall not apply if—

(a) Such dividends are treated as income from sources within that other Contracting State under subparagraph (1)(b) of Article 5, or

(b) The recipient of the dividends has a permanent establishment in the other Contracting State and such dividends are effectively connected with such permanent establishment.

ARTICLE 13

Interest

(1) Interest derived from sources within one of the Contracting States by a resident or corporation of the other Contracting State may be taxed by both Contracting States.

(2) Interest received by the Government of one of the Contracting States or any agency or instrumentality wholly owned by that Government shall be exempt from tax by the other Contracting State.

(3) The tax imposed by Brazil on interest received from sources within Brazil by a resident or corporation of the United States which is a bank or other financial institution shall not exceed 15 percent of the amount paid. This paragraph shall not apply if the recipient of such interest has a permanent establishment in Brazil. In such case, such interest shall be treated as industrial or commercial profits attributable to such permanent establishment and the provisions of Article 8 shall apply thereto.

(4) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(5) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of paragraph (3) of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

(6) Interest paid by a corporation of one of the Contracting States to a person other than a resident or corporation of the other Contracting State (and, in the case of interest paid by a Brazilian corporation, other than a citizen of the United States) shall be exempt from tax by the other Contracting State. This paragraph shall not apply if—

(a) such interest is treated as income from sources within that other Contracting State under subparagraph (2)(b) of Article 5, or

(b) the recipient of the interest has a permanent establishment in the other Contracting State and such interest is effectively connected with such permanent establishment.

ARTICLE 14

Royalties

(1) The tax imposed by one of the Contracting States on royalties derived from sources within that Contracting State by a resident or corporation of the other Contracting State shall not exceed 15 percent of the gross amount thereof. This paragraph shall not apply if the recipient of such royalties has a permanent establishment in the other Contracting State. In such case, such royalties shall be treated as industrial or commercial profits attributable to such permanent establishment and the provisions of Article 8 shall apply thereto.

(2) For the purpose of paragraph (1) of this Article, the term "royalties" means any royalties, rentals or other amounts paid as consideration for the use of, or the right to use—

(a) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, or other like property or rights;

(b) information concerning industrial or scientific knowledge, experience, or skill; or

(c) trademarks related to any of the items specified in subparagraph (a) or (b).

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to any royalties, rentals or other amounts paid:

(a) in respect of the operation of mines, quarries or other natural resources; and

(b) as consideration for the use of, or the right to use, motion picture films, films or tapes for radio, television broadcasting, or other like property or rights.

(4) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the provisions of the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration in accordance with the provisions of the tax legislation of the Contracting State from which the royalty is derived. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In both cases, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 15

Income from real property

A resident or corporation of one of the Contracting States subject to tax in the other Contracting State on income from real property, including gains derived from the sale or exchange of such property, or on royalties in respect of the operation of mines, quarries, or other natural resources may elect for any taxable year to compute that tax on such income on a net basis as if such resident or corporation were engaged in trade or business in that other Contracting State.

ARTICLE 16

Investment or holding companies

A corporation of one of the Contracting States deriving dividends, interest or royalties from sources within the other Contracting State shall not be entitled to the benefits of Article 12, Article 13, or Article 14 if (a) by reason of special measures granting tax benefits to investment or holding companies the tax imposed on such corporation by the former Contracting State with respect to such dividends, interest or royalties is substantially less than the tax generally imposed by such Contracting State on corporate profits, and (b) 25 percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned, directly or indirectly, by one or more persons who are not individual residents of the former Contracting States (or, if residents of Brazil, are citizens of the United States).

ARTICLE 17

Income from personal services

(1) An individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State with respect to income from personal services if—

(a) he is present within the latter Contracting State for a period or periods not exceeding in the aggregate 183 days during the taxable year; and either

(b) in the case of employment income—

(i) such individual is an employee of a resident or corporation of a State other than the latter Contracting State (or of a permanent establishment of a resident or corporation of the latter Contracting State located outside the latter Contracting State); and

(ii) such income is not deducted as such in computing the profits of a permanent establishment in the latter Contracting State which are subject to tax in that State; or

(c) such income does not exceed $4,000 or its equivalent in Brazilian cruzeiros.

(2) Compensation received by any individual for personal services performed aboard ships or aircraft operated by a resident or corporation of a Contracting State and registered in such Contracting State shall, subject to paragraph (3) of Article 3, be exempt from tax by the other Contracting State, if the services are rendered by a member of the regular complement of the ship or aircraft.

(3) For purposes of paragraph (1), the term "income from personal services" includes employment and income earned by an individual from the performance of personal services in an independent capacity. The term "employment income" includes income from services performed by officers and directors of corporations, but does not include income from personal services performed by partners, which shall be treated as income from the performance of services in an independent capacity.

(4) Income derived by a public entertainer, theatre, motion picture or television artist, musician or athlete from his personal activities as such, even though otherwise exempt under paragraph (1) of this Article, shall not be exempt if such income exceeds $100 or its equivalent in Brazilian cruzeiros, for each day such person is present in the other Contracting State.

ARTICLE 18

Teachers

(1) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State or of a university or other accredited educational institution situated in the other Contracting State, visits the latter Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax by the latter Contracting State on his income from personal services for teaching or research at such educational institution, or at other such institutions, for a period not exceeding two years from the date of his arrival in the latter Contracting State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 19

Students and trainees

(1) (a) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of—

(i) studying at a university or other accredited educational institution in that other Contracting State;

(ii) securing training required to qualify him to practice a profession or a professional specialty; or

(iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organization,

shall be exempt from tax by that other Contracting State with respect to—

(A) gifts from abroad for the purposes of his maintenance, education, study, research or training;

(B) the grant, allowance, award; and

(C) income from personal services performed in the other Contracting State in an amount not in excess of $2,000 or its equivalent in Brazilian cruzeiros for any taxable year; or, if such individual is securing training required to qualify him to practice a profession or a professional specialty, not in excess of $5,000 or its equivalent in Brazilian cruzeiros for any taxable year.

(b) The benefits under this paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of this paragraph for more than five taxable years.

(2) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, a resident or corporation of the former State, for the primary purpose of—

(i) acquiring technical, professional, or business experience from a person other than that resident or corporation of the former State or a corporation 50 percent or more of the voting stock of which is owned by that corporation of the former State; or

(ii) studying at a university or other accredited educational institution in that other Contracting State;

shall be exempt from tax by that other Contracting State with respect to his income from personal services performed in the other Contracting State for that period in an amount not in excess of $5,000 or its equivalent in Brazilian cruzeiros.

(3) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as a participant in a program sponsored by the Government of the other Contracting State, for the primary purpose of training, research or study, shall be exempt from tax by that other State with respect to his income from personal services performed in that other Contracting State and received in respect of such training, research, or study in an amount not in excess of $10,000 or its equivalent in Brazilian cruzeiros.

ARTICLE 20

Governmental salaries

Wages, salaries, and similar compensation, and pensions, annuities, or similar benefits paid by, or from public funds of, one of the Contracting States or the political subdivisions thereof to an individual who is a national of that Contracting State for services rendered to that Contracting State or to any of its political subdivisions in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

ARTICLE 21

Rules applicable to personal income articles

(1) Articles 17, 18, 19 and 20 shall apply to reimbursed travel expenses, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in Articles 17 and 19.

(2) An individual who qualifies for benefits under more than one of the provisions of Articles 17, 18, 19 and 20 may apply that provision most favorable to him, but he shall not be entitled to the benefits of more than one provision in any taxable year.

ARTICLE 22

Deduction for charitable contributions

In the computation of taxable income under the United States income tax, a deduction shall be allowed to citizens and residents of the United States and to United States corporations for contributions to any organization created or organized under the laws of Brazil which constitutes a nonprofit organization exempt from tax for purposes of the income tax laws of Brazil if—

(a) such contributions are used entirely within Brazil and

(b) the recipient organization has qualified as an exempt organization under subsection 501(c)(3) of the United States Internal Revenue Code.

Such deduction shall not exceed an amount which would be allowable under the United States Internal Revenue Code if such organization were created or organized under the laws of the United States and if such contributions were used within the United States.

ARTICLE 23

Pensions and annuities

(1) Private pensions and private life annuities paid to individuals who are residents of one of the Contracting States shall be exempt from tax by the other Contracting State.

(2) The term "life annuities", as used in this Article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration.

(3) The term "pension", as used in this Article, means periodic payments made after retirement or death in consideration for, or by way of compensation for injuries received in connection with, past employment.

ARTICLE 24

Consultation

(1) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention. Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to conventions between one of the Contracting States and any other State, the competent authorities shall endeavour to settle the question as quickly as possible by mutual agreement.

(2) In particular, the competent authorities of the Contracting States may consult together to endeavour to agree—

(a) to the same application of the source rules set forth in Article 5 to particular items of income;

(b) to the same attribution of industrial or commercial profits to a resident or corporation of one of the Contracting States and to its permanent establishment situated in the other Contracting State; or

(c) to the same allocation of income between a resident or corporation of one of the Contracting States and any related person, provided for in Article 11.

In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income and refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement.

ARTICLE 25

Exchange of information

(1) The competent authority of one of the Contracting States shall exchange such information with the competent authority of the other Contracting State as is pertinent to carrying out the provisions of the present Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of the present Convention.

(2) The competent authority of the Contracting State to which a request for information is made shall not exchange information unless that information would be available under the taxation laws and administrative procedures of that State if the tax of the other State, to which the request for information relates, were the tax of the former State and were being imposed by that State.

(3) Any information exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution with respect to the taxes which are the subject of the present Convention.

(4) No information shall be exchanged which would disclose any trade, business, industrial, or professional secret.

ARTICLE 26

Assistance in collection

(1) Each of the Contracting States shall endeavour to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under the present Convention by the other State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected. The competent authority of each of the Contracting States shall consult with the competent authority of the other Contracting State for the purpose of cooperating with and advising that other Contracting State in respect of any action taken by it within the former Contracting State to collect its tax.

(2) In no case shall the provisions of this Article be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practices of the Contracting State endeavouring to collect the tax or which would be contrary to that State's sovereignty, security or public policy.

ARTICLE 27

Taxpayer claims

A taxpayer shall be entitled to present his case to the Contracting State of which he is a citizen or resident, or, if the taxpayer is a corporation of one of the Contracting States, to that State, if he considers that the action of the other Contracting State has resulted, or will result for him in taxation contrary to the provisions of this Convention. Should the taxpayer's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavour to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of the Convention.

ARTICLE 28

Exchange of legal information

(1) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in Article 1(1) and of the adoption of any taxes referred to in Article 1(2) by transmitting the texts of any amendments or new statutes at least once a year.

(2) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting the present Convention under the laws of the respective States, whether in the form of regulations, rulings or judicial decisions.

(3) For the purpose of mutual assistance in the development and maintenance of sound fiscal policies and tax administration, the competent authorities of the Contracting States may, on the initiative of either, consult together and make such arrangements as may be mutually acceptable, including exchanges of personnel and of technical memoranda and studies.

(4) The texts transmitted under this Article shall be in the language of the transmitting State.

ARTICLE 29

Diplomatic and consular officers

The provisions of the Convention shall not prejudice the tax privileges enjoyed by diplomatic or consular officers by virtue of general rules of international law or the provisions of special agreements.

ARTICLE 30

Effective dates and ratification

(1) The present Convention shall be ratified and the instruments of ratification exchanged at Washington as soon as possible.

(2) After the exchange of instruments of ratification, the present Convention shall have effect for taxable years beginning on or after the first day of January of the year following the exchange of instruments of ratification.

(3) Notwithstanding the provisions of paragraph (2) of this Article—

(a) Paragraph (8) of Article 5 shall have effect only after the competent authorities of both Contracting States have established mutually acceptable rules for implementation of such paragraph.

(b) Article 7 shall have effect with respect to property placed in service and net new investments made on or after January 1, 1968.

(c) Articles 12, 13 and 14 shall have effect with respect to amounts paid on or after January 1, 1969.

(4) The present Convention shall continue in effect indefinitely, but it may be terminated by either of the Contracting States at any time after three years from the first day of January referred to in paragraph (2) of this Article, provided that at least six months' prior notice of termination has been given through diplomatic channels. In such event, the present Convention shall cease to be effective for taxable years beginning on or after the first day of January next following the expiration of the six-month period.

(5) Notwithstanding the provisions of paragraph (4) of this Article and upon six months' prior notice to be given through diplomatic channels—

(a) paragraph (8) of Article 5, and any rules established for the implementation of such paragraph by agreement of the competent authorities of both Contracting States, may be terminated by either Contracting State at any time.

(b) the benefits provided under Articles 7 or 22 may be terminated by the United States at any time after three years from the date specified in paragraph (2) of this Article.

(c) the provisions of paragraphs (3) and (4) of Article 12, paragraph (3) of Article 13, and paragraph (1) of Article 14 may be terminated by Brazil at any time after three years from the date specified in paragraph (2) of this Article.

(6) Notwithstanding the provisions of paragraphs (4) and (5) of this Article, the provisions of paragraphs (3) and (4) of Article 12, paragraph (3) of Article 13, and paragraph (1) of Article 14 may, by notice given by Brazil to the United States through diplomatic channels, be—

(a) terminated by Brazil at any time after the date on which the credit provided by Article 7 is terminated pursuant to paragraph (4) thereof; or

(b) suspended by Brazil at any time after the date, and for the period, of any suspension of the credit provided by Article 7 pursuant to paragraph (4) thereof.

(7) Any termination or suspension under paragraphs (5) or (6) shall not prejudice benefits available with respect to transactions entered into prior to such termination.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed the present Convention.

DONE at Rio de Janeiro, in duplicate, in the English and Portuguese languages, both texts equally authentic, this 13th day of March one thousand nine hundred and sixty seven.

For the Government of the United States of America:

[SEAL]

JOHN TUTHILL

For the Government of the United States of BRAZIL:

[SEAL]

JURACY MAGALHESÃES

OCTAVIO BULHÕES

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC WITH RESPECT TO TAXES ON INCOME AND PROPERTY

The President of the United States of America and the President of the French Republic, desiring to conclude a Convention for the avoidance of double taxation of income and the prevention of fiscal evasion, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America: The Honorable Charles E. Bohlen, Ambassador of the United States of America in Paris, and

The President of the French Republic: Mr. Hervé Alphand, Ambassador of France, Secretary General of the Ministry of Foreign Affairs, who, having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE 1

Taxes covered

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States, the Federal income tax, including surtax, imposed by the Internal Revenue Code and

(b) In the case of France:

(i) the income tax on the income of physical persons, the complementary tax, the corporation tax, including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes, and

(ii) the tax on Stock Exchange transactions.

(2) The Convention shall also apply to any documentary taxes on sales or transfers of shares or certificates of stock or bonds which are subsequently imposed.

(3) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

(4) For the purpose of Article 24 (Nondiscrimination), this Convention shall also apply to taxes of every kind and to those imposed at the national, State and local level.

ARTICLE 2

General definitions

(1) In this Convention, unless the context otherwise requires:

(a) The term "United States of America" means the United States of America and when used in the geographical sense means the States thereof and the District of Columbia. The term "France" when used in a geographical sense means Metropolitan France and the Overseas departments (Guadeloupe, Guyane, Martinique, and Reunion).

(b) The terms "a Contracting State" and "the other Contracting State" means the United States or France, as the context requires.

(c) The term "person" comprises an individual or a corporation, or any other body of individuals or persons.

(d) (i) The term "United States corporation" or "corporation of the United States" means a corporation, or any entity treated as a corporation for United States tax purposes, which is created or organized under the laws of the United States or any State thereof or the District of Columbia; and

(ii) The term "French corporation" or "corporation of France" means any body corporate or any entity which is treated as a body corporate under French tax law, which is resident within France for French tax purposes.

(e) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of France, the Minister of Economy and Finance or his delegate.

(2) As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

ARTICLE 3

Fiscal domicile

(1) The term "resident of France" means:

(a) A French corporation, and

(b) Any person (other than a body corporate or any entity which under French law is treated as a body corporate) who is resident in France for purposes of its tax.

(2) The term "resident of the United States" means:

(a) A United States corporation, and

(b) Any person (other than a corporation or an entity treated under United States law as a corporation) who is resident in the United States for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxed as the income of a resident.

(3) An individual who is a resident in both Contracting States shall be deemed a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests). If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed a resident of that Contracting State in which he has an habitual abode. If he has an habitual abode in both Contracting States or in neither of the Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement. For purposes of this Article, a permanent home is the place in which an individual dwells with his family. An individual who is deemed to be a resident of one Contracting State and not a resident of the other Contracting State by reason of the provisions of this paragraph shall be deemed a resident only of the former State for all purposes of this Convention (including Article 22).

ARTICLE 4

Permanent establishment

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term "permanent establishment" shall include especially:

(a) A seat of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A warehouse;

(g) A mine, quarry, or other place of extraction of natural resources;

(h) A building site or construction or assembly project which exists for more than twelve months.

(3) Notwithstanding paragraph (1) of this Article, a permanent establishment shall not include a fixed place of business used only for one or more of the following activities:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the residence for the purpose of processing by another person;

(d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;

(e) The maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the resident.

(4) A person acting in a Contracting State on behalf of a resident of the other Contracting States—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment in the first-mentioned State if such person:

(a) Has, and habitually exercises in that State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident, or

(b) Maintains substantial equipment or machinery within the first-mentioned State for a period of twelve months or more.

(5) A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident carries on business in that other State through a broker, general commission agent, or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(6) The fact that a resident of one of the Contracting States is a related person, as defined in Article 8 of this Convention, with respect to a resident of the other Contracting State or with respect to a person which engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first Contracting State has a permanent establishment in the other Contracting State.

(7) An insurance company of one of the Contracting States shall be considered as having a permanent establishment in the other Contracting State if, through a representative other than one described in paragraph (5), such company receives premiums from or insures risks in the territory of that other Contracting State.

ARTICLE 5

Income from real property

(1) Income from real property and royalties in respect of the operations of mines, quarries, or other natural resources (not including interest on debts secured by mortgages or other encumbrances on such real property or royalty interests but including gains derived from the sale or exchange of such property or the right giving rise to such royalties) shall be taxable by the Contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) The provisions of paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

(3) A resident of one of the Contracting States subject to tax in the other Contracting State on income from real property or on royalties referred to in this Article may elect for any taxable year to be subject to such other State's tax on such income as if such resident were engaged in business in the other Contracting State.

ARTICLE 6

Business profits

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be taxable only in that State unless such resident is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by such other State on the industrial or commercial profits of such residents but only on so much of them as are attributable to the permanent establishment.

(2) Where a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the resident of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term "industrial or commercial profits of a resident" includes income derived from manufacturing, mercantile, agricultural, fishing, or mining activities, from the operation of ships or aircraft, from the furnishing of personal services, from the rental of tangible personal property, and from insurance activities and rents or royalties derived from motion picture films, films or tapes of radio or television broadcasting. It also includes income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraphs (3) and (4) of Article 11), and capital gains but only if the right or property giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of one Contracting State, has in the other Contracting State. It does not include income received by an individual as compensation for personal services either as an employee or in an independent capacity.

ARTICLE 7

Shipping and air transport

Notwithstanding Article 6, income which a resident of one of the Contracting States derives from the operation in international traffic of ships or aircraft registered in that Contracting State shall be taxable only in that Contracting State.

ARTICLE 8

Related persons

(1) Where a resident of a Contracting State and a resident of the other Contracting State are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to the resident of the first Contracting State but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of the resident of the first Contracting State for purposes of the present Convention and taxed accordingly.

(2) (a) A person other than a corporation is related to a corporation if such person participates directly or indirectly in the management, control, or capital of the corporation.

(b) A corporation is related to another corporation if either participates directly or indirectly in the management, control, or capital of the other, or if any person or persons participate directly or indirectly in the management, control, or capital of both corporations.

ARTICLE 9

Dividends

(1) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may also be taxed by the former Contracting State but the tax imposed on such dividends shall not exceed—

(a) 15 percent of the amount actually distributed; or

(b) When the recipient is a corporation, 5 percent of the amount actually distributed if—

(i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least ten percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and

(ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received).

(3) Paragraph (2) of this Article and, in the case of dividends derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the dividends has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with the permanent establishment. In such a case, the provisions of Article 6 shall apply.

(4) (a) Except as provided in subparagraph (b) dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State, and dividends paid by any other corporation shall be treated as income from sources outside that Contracting State.

(b) Dividends paid by a corporation other than a United States corporation shall be treated as dividends from sources within the United States if such corporation had a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence).

(5) When the prepayment (precompte) is levied on dividends paid by a French corporation to a resident of the United States, such resident shall be entitled to the refund of that prepayment, subject to deduction of the withholding tax with respect to the refunded amount in accordance with paragraph (2) of this Article.

ARTICLE 10

Interest

(1) Interest derived from sources within one Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Interest on bonds, notes, debentures, or any other form of indebtedness from sources within the United States and paid to a resident of France may also be taxed by the United States at a rate not in excess of 10 percent of the amount paid.

(3) Interest on bonds, notes, debentures, or any other form of indebtedness from sources within France and paid to a resident of the United States may also be taxed by France at a rate not in excess of 10 percent of the amount paid except that interest on bonds issued before January 1, 1965, may be taxed at a rate not in excess of 12 percent of the amount paid.

(4) Paragraphs (2) and (3) of this Article and, in the case of interest derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected to such permanent establishment. In such a case, the provisions of Article 6 shall apply.

(5) The term "interest" as used in this Article means income from Government securities, bonds, or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income has its source.

(6) Interest shall be deemed to be from sources within a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to be from sources within the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(8) Interest received by one of the Contracting States, or by an instrumentality of that State not subject to income tax by such State, shall be exempt in the State in which such interest has its source.

ARTICLE 11

Royalties

(1) Royalties derived from sources within one Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Except as provided in paragraph (3), royalties derived from sources within a Contracting State by a resident of the other Contracting State may also be taxed by the former Contracting State but the tax imposed on such royalties shall not exceed 5 percent of the gross amount paid.

(3) Royalties derived from copyrights of literary, artistic, or scientific works (including gain from the sale or exchange of property giving rise to such royalties) by a resident of one Contracting State shall be taxable only in that Contracting State.

(4) The term "royalties" as used in paragraph (1) of this Article means—

(a) Any royalties, rentals, or other amounts paid as consideration for the use of, or the right to use, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or for knowledge, experience, or skill (know-how), and

(b) Gains derived from the sale or exchange of any such right or property, if payment of the amounts realized on such sale or exchange is contingent, in whole or in part, on the productivity, use or disposition of such right or property. If the amounts derived from the sale or exchange of any such right or property are not so contingent, the provisions of Article 12 shall apply.

(5) Paragraphs (2) and (3) of this Article, and, in the case of royalties derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the royalty being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the right or property giving rise to the royalties is effectively connected with such permanent establishment. In such a case, the provisions of Article 6 shall apply.

(6) Royalties paid for the use of, or the right to use, property described in paragraph (4) in a State shall be treated as income from sources within that State.

(7) Where, owing to a special relationship between the prayer and the recipient, or between both of them and some other person, the amount of the royalties paid exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall only apply to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

Capital gains

(1) A resident of one of the Contracting States shall be taxable only in that State on gains from the sale or exchange of capital assets.

(2) Paragraph (1) of this Article shall not apply if—

(a) The gain is received by a resident of one of the Contracting States and arises out of the sale or exchange of property described in Article 5 (income from real property) located within the other Contracting State or of the sale or exchange of shares or comparable interests in a real property cooperative or of a corporation whose assets consist principally of such property.

(b) The recipient of the gain, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(c) The recipient of the gain, being an individual resident of one of the Contracting States—

(i) Maintains a fixed base in the other Contracting State and the property giving rise to such gain is effectively connected to such fixed base, or

(ii) Is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days during the taxable year.

(3) In the case of gains described in paragraph (2)(b), the provisions of Article 6 shall apply.

ARTICLE 13

Branch profits

(1)(a) Dividends paid by a French corporation to a person other than a citizen, resident, or corporation of the United States shall be exempt from tax by the United States unless such French corporation had a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence).

(b) The United States may impose its personal holding company tax and accumulated earnings tax as if this Convention had not come into effect. However:

(i) A French corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned by one or more individual residents of France in their individual capacities for that entire year.

(ii) A French corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(2)(a) A United States corporation which maintains a permanent establishment in France shall remain subject therein to the withholding tax in accordance with provisions of French internal law but—

(i) The base on which such tax shall be levied will be reduced by ⅓ and

(ii) The rate of such tax shall not exceed 15 percent.

(b) Profits realized by a French permanent establishment of a United States corporation and incorporated in its capital shall not be subject in France to the "droit d'apport majoré".

ARTICLE 14

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of independent activities shall be taxable only in that State unless such activities were performed in the other Contracting State. Income in respect of independent activities performed within such other State may be taxed by such other State.

(2) Notwithstanding the provisions of paragraph (1), income derived by a resident of a Contracting State in respect of independent activities performed in the other Contracting State shall not be taxable in such other State if:

(a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

(b) The recipient does not maintain a fixed base in the other State for a period or periods exceeding in the aggregate 183 days in such year.

(3) The term "independent activities" means all the activities—other than commercial, industrial, or agricultural activities—carried on on his own account independently by a person who receives the proceeds or bears the losses arising from these activities.

ARTICLE 15

Dependent personal services

(1) Salaries, wages, and other similar remuneration paid to a resident of a Contracting State for labor or personal services shall be taxable only in that State unless such labor or personal services were performed in the other Contracting State. Remuneration received for labor or personal services performed within such other State may be taxed by such other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall not be taxable in such other State if:

(a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned,

(b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) The remuneration is not borne by a permanent establishment which the employer has in the other State.

(3) Remuneration received by an individual for personal services performed aboard ships or aircraft registered in one of the Con-

tracting States and operated by a resident of that Contracting State shall be exempt from tax by the other Contracting State, if such individual is a member of the regular complement of the ship or aircraft.

ARTICLE 16

Government functions

(1) Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual who is national of that State in respect of services rendered to that State or a subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.

(2) The provisions of Articles 15, 19, and 20 shall apply to remuneration or pensions in respect of services rendered in connection with any industrial or commercial activity carried on by one of the Contracting States or a political subdivision or a local authority thereof.

(3) In the case of an individual who is a national of both Contracting States, the provisions of Article 22, paragraph (4), shall apply to remuneration described in paragraph (1) but such remuneration shall be treated as income from sources within the Contracting State from which such individual receives such remuneration.

ARTICLE 17

Teachers

(1) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State or of a university or other accredited educational institution situated in the other Contracting State visits the latter Contracting State for the primary purpose of teaching or engaging in research, or both at a university or other accredited institution shall be exempt from tax by the latter Contracting State on his income from personal services for teaching or research at such educational institution, or at other such institutions, for a period not exceeding 2 years from the date of his arrival in the latter Contracting State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 18

Students and Trainees

(1) (a) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of—

(i) Studying at a university or other accredited educational institution in that other Contracting State, or

(ii) Securing training required to qualify him to practice a profession or professional speciality, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b).

(b) The amounts referred to in subparagraph (a) include—

(i) Gifts from abroad for the purposes of his maintenance, education, study, research, or training;

(ii) The grant, allowance, or award; and

(iii) Income from personal services performed in the other Contracting State in an amount not in excess of $2,000 or its equivalent in francs for any taxable year.

(c) The benefits under this paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of this Article and Article 17 for more than a total of five taxable years.

(2) A resident of one of the Contracting States who is present in the other Contracting State as an employee of, or under contract with, a resident of the former State, for the primary purpose of—

(a) Acquiring technical, professional, or business experience from a person other than that resident of the former State or a corporation 50 percent or more of the voting stock of which is owned by that resident of the former State, or

(b) Studying at a university or other accredited educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State for one taxable year with respect to his income from personal services in an amount not in excess of $5,000 or its equivalent in francs.

ARTICLE 19

Private pensions and annuities

(1) Except as provided in Article 16, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to a resident of a Contracting State shall be taxable only in that Contracting State.

(3) The term "annuities," as used in this Article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

(4) The term "pensions," as used in this Article, means periodic payments made after retirement in consideration for, or by way of compensation for injuries received in connection with, past employment.

ARTICLE 20

Social security payments

Social security payments (whether representing employee or employer contributions or accretions thereto) paid by one of the Contracting States to an individual who is a resident of the other Contracting State shall be taxable only in the former Contracting State.

ARTICLE 21

Rules applicable to personal income articles

(1) Articles 14 through 18 shall apply to reimbursed travel expenses, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in Article 18.

(2) An individual who qualifies for benefits under more than one of the provisions of Articles 14 through 18 may apply that provision most favorable to him, but shall not be entitled to the benefits of more than one provision in any taxable year.

ARTICLE 22

General rules of taxation

(1) Any income from sources within a Contracting State to which the provisions of the present Convention are not expressly applicable shall be taxable by such Contracting State in accordance with its own law.

(2) A resident of one of the Contracting States shall be taxed by the other Contracting State only on—

(a) Commercial or industrial profits attributable to a permanent establishment located in that other Contracting State, and

(b) Income from sources within that other Contracting State,

in accordance with the limitations set forth in the present Convention.

(3) The provisions of the present Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded—

(a) By the laws of one of the Contracting States in the determination of the tax imposed by the State, or

(b) By any other agreement between the Contracting States.

(4) (a) The United States may tax its citizens and residents as if the present Convention had not come into effect.

(i) This provision shall not affect the rules laid down in Article 20 (Social Security Payments), Article 23 (Relief from Double Taxation), and Article 24 (Nondiscrimination).

(ii) This provision shall not affect the rules laid down in Articles 17, 18, and 21 (Students, Teachers, Rules applicable thereto) when applicable to individuals who are not citizens of the United States and who do not have immigrant status in the United States.

(iii) This provision shall not affect the rules laid down in Articles 16 and 21 (Government Functions, Rules applicable thereto) when they apply to:

an individual who is not a citizen of the United States and who does not have immigrant status in the United States;

an individual who, having immigrant status in the United States, has elected to claim the benefits of these articles; in that case, such person must agree that any calendar year or portion of a calendar year for which Articles 16 and 21 apply shall not be counted as a period during which he has resided or has been physically present in the United States in the calculation of periods of residence or presence in the United States required for naturalization pursuant to the immigration and nationality laws of the United States.

(b) Subject to the provisions of Article 23, France may tax its residents who are public entertainers, such as theatre, motion picture, radio or television artists, musicians and athletes, on income described in Articles 14 and 15 (Personal Service Income) which is derived from activities, or services performed, in the United States.

(5) Any transaction in which an order for the purchase, sale or exchange of stocks, securities or commodities originates in one of the Contracting States and is executed through a stock or commodities exchange in the other State shall be exempt by the former State from stamp or like tax otherwise arising with respect to such transaction.

ARTICLE 23

Relief from double taxation

Double taxation of income shall be avoided in the following manner:

(1) The United States shall allow to a citizen, resident, or corporation of the United States as a credit against its tax specified in paragraph (1) of Article 1 the appropriate amount of income taxes paid to France. Such appropriate amount shall be based upon the amount of French tax paid but shall not exceed that portion of the United States tax which net income from sources within France bears to the entire net income.

(2) In the case of France:

(a) Income other than that mentioned in paragraph (b) below shall be exempt from the French taxes mentioned in paragraph (1) of Article 1 while the income is, by reason of the Convention, taxable in the United States.

(b) As regards income taxable in both Contracting States in accordance with the provisions of this Convention, France shall allow to a resident of France receiving such income from United States sources a tax credit corresponding to the amount of tax levied in the United States. Such tax credit, not exceeding the amount of French tax levied on such income, shall be allowed against taxes mentioned in paragraph (1) (b) (i) of Article 1 of this Convention, in the bases of which such income is included.

(c) Notwithstanding the provisions of paragraphs (a) and (b), French tax may be computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with French law.

(3) A resident of a Contracting State who maintains one or several abodes in the territory of the other Contracting State shall not be subject in that other State to an income tax according to an "imputed" income based on the rental value of that or those abodes.

ARTICLE 24

Nondiscrimination

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a citizen of that other Contracting State who is a resident thereof.

(2) The taxation on a permanent establishment which a resident of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on a resident of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. The provisions of this paragragh shall not be construed to prevent the application of the provisions of Article 13 (Branch Profits) of the Convention nor to prevent the United States from imposing a comparable tax burden on the income of a permanent establishment maintained by a resident of France in the United States.

(3) A corporation of a Contracting State, the capital of which is wholly or partially owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of that first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned by one or more residents of that first-mentioned State, is or may be subjected.

ARTICLE 25

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention. In particular, the competent authorities of the Contracting States may consult together to endeavor to agree:

(a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;

(b) To the same allocation of income between a resident of one of the Contracting States and any related person, provided for in Article 8; or

(c) To the same determination of the source of particular items of income.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 26

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of the Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

(a) To carry out administrative measures at variance with the laws or the administrative practice of that or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States shall agree on the list of information which shall be furnished on a routine basis.

ARTICLE 27

Assistance in collection

(1) The two Contracting States undertake to lend assistance and support to each other in the collection of the taxes to which the present Convention relates, together with interest, costs, and additions to the taxes and fines not being of a penal character according to the laws of the State requested, in the cases where the taxes are definitively due according to the laws of the State making the application.

(2) In the case of an application for enforcement of taxes, revenue claims of each of the Contracting States which have been finally determined will be accepted for enforcement by the State to which application is made and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) The application will be accompanied by such documents as are required by the laws of the State making the application to establish that the taxes have been finally determined.

(4) If the revenue claim has not been finally determined, the State to which application is made will take such measures of conservancy (including measures with respect to transfer of property of nonresident aliens) as are authorized by its laws for the enforcement of its own taxes.

(5) The assistance provided for in this Article shall not be accorded with respect to citizens, corporations, or other entities of the State to which application is made.

ARTICLE 28

Diplomatic and consular officers

Nothing in the present Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

ARTICLE 29

Territorial extension

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to the Overseas Territories of the French Republic which impose taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedure.

(2) At any time after the expiration of a period of 1 year from the effective date of an extension made by virtue of paragraph (1) either of the Contracting States may by a written notice of termination given to the other Contracting State through diplomatic channels, terminate the application of the provisions in respect to any territory to which such application has been extended, in which case the provisions shall cease to be applicable to such territory on and after the first day of January following the date of such notice; provided, however, that this shall not affect the continued application of such provisions to the United States, to France, or to any other territory to which such provisions apply and which is not named in the notice of termination.

(3) Unless otherwise agreed by both Contracting States, the termination of the Convention by one of the Contracting States under Article 32 shall also terminate the application of the Convention to any territory to which it has been extended under this Article.

ARTICLE 30

Exchange of official information

(1) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in Article 1(1) and of the adoption of any taxes referred to in Article 1(2) by transmitting the texts of any amendments or new statutes at least once a year.

(2) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting the present Convention under their respective laws, whether in the form of regulations, rulings, or judicial decisions.

(3) Where, by reason of any change made in the taxation laws of one of the Contracting States, it seems advisable to adjust some provisions of this Convention without affecting its general principles, the necessary adjustments may be agreed between the Contracting States by notes to be exchanged through diplomatic channels or in any other manner in accordance with their respective constitutional procedure.

ARTICLE 31

Entry into force

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington. It shall enter into force one month after the date of exchange of the instruments of ratification. Its provisions shall for the first time have effect:

(a) In the case of France:

(i) As respects withholding taxes, to any proceeds payable and transactions completed on or after the date on which this Convention enters into force;

(ii) As respects other income taxes, to taxes which are levied for the assessment year 1967; and

(iii) As respects the tax on stock exchange transactions, the date on which this Convention enters into force.

(b) In the case of the United States:

(i) As respects the rate of withholding tax, to amounts received on or after the

date on which this Convention enters into force;

(ii) As respects other income taxes, to taxable years beginning on or after January 1, 1967.

(2) Upon the coming into effect of this Convention, there shall terminate:

(a) The Convention of July 25, 1939, relating to income and other taxes

(b) The Convention of October 18, 1946, the supplementary Protocol of May 17, 1948, and the Convention of June 22, 1956, insofar as they concern taxes on income, on capital and tax on stock exchange transactions.

The provisions of those Conventions and of that Protocol will cease to have effect from the date on which the corresponding provisions of the present Convention shall for the first time have effect according to the subparagraph (1) above-mentioned.

ARTICLE 32

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least 6 months before the end of any calendar year after the year 1969. In such event, the Convention shall cease to have effect:

(1) In the case of France:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given.

(b) As respects other income taxes, for any year of assessment beginning on or after January 1 of the year next following the year in which notice is given; and

(c) As respects the tax on stock exchange transactions, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

(2) In the case of the United States:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given;

(b) As respects other income taxes, for any taxable year beginning on or after January 1 of the year following the year in which notice is given; and

(c) As respects taxes referred to in paragraph (2) of Article 1, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

In witness whereof, the respective plenipotentiaries have signed the present Convention.

Done at Paris in duplicate, in the English and French languages, each text being equally authentic, this 28th day of July, 1967.

For the President of the United States of America:

[SEAL] CHARLES E. BOHLEN

For the President of the French Republic:

[SEAL] HERVÉ ALPHAND

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Republic of the Philippines, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have appointed for that purpose their respective Plenipotentiaries:

The Government of the United States of America:

Dean Rusk, Secretary of State of the United State of America,

The Government of the Republic of the Philippines:

Mauro Mendez, Secretary of Foreign Affairs of the Republic of the Philippines, and

Rufino G. Hechanova, Secretary of Finance of the Republic of the Philippines,

who, having communicated to each other their respective powers, found in good and due form, have agreed upon the following Articles:

ARTICLE 1

Taxes covered

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States, the Federal income tax, including surtax, imposed by Subtitle A of the Internal Revenue Code (but not including the tax on improperly accumulated earnings or the personal holding company tax).

(b) In the case of the Philippines, the income tax imposed by Title II of the National Internal Revenue Code (but not including the tax on improperly accumulated earnings or the personal holding company tax).

(2) The present Convention shall also apply to taxes substantially similar to those covered by paragraph (1) of this Article which are subsequently imposed in addition to, or in place of, existing taxes.

(3) For the purpose of Article 6, this Convention shall also apply to taxes of every kind, and to those imposed at the national, state, or local level.

ARTICLE 2

General definitions

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States thereof, the District of Columbia, and Wake Island;

(b) The term "Philippines" means the Republic of the Philippines, and when used in a geographical sense means the territories comprising the Philippines;

(c) The terms "one of the Contracting States" and "the other Contracting State" mean the United States or the Philippines, as the context requires;

(d) The term "person" comprises an individual, a corporation and any other body of individuals or persons;

(e) The term "corporation" means any body corporate, association or joint stock company or other entity which is treated as a body corporate for tax purposes;

(f) The term "United States corporation" means a corporation created or organized under the laws of the United States or of any State thereof or the District of Columbia;

(g) The term "Philippine corporation" means a corporation created or organized under the laws of the Philippines;

(h) The terms "resident or corporation of one of the Contracting States" and "resident or corporation of the other Contracting State" means a resident or corporation of the United States or a resident or corporation of the Philippines, as the context requires;

(i) The term "competent authority" means:

(1) in the United States, the Secretary of the Treasury or his delegate;

(2) in the Philippines, the Secretary of Finance or his delegate.

(2) As regards the application of the present Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

ARTICLE 3

General rules of taxation

(1) A resident or corporation of one of the Contracting States shall be taxable by the other Contracting State only on income derived from sources within that other Contracting State.

(2) A resident or corporation of one of the Contracting States shall be taxed by the other Contracting State on income taxable under paragraph (1) in accordance with the limitations set forth in the present Convention. Any income to which the provisions of the present Convention are not expressly applicable shall be taxable by each of the Contracting States in accordance with its own law. The provisions of the present Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded (a) by the laws of one of the Contracting States in the determintaion of the tax imposed by that State or (b) by any other agreement between the Contracting States.

(3) Except as provided in paragraph (4), a Contracting State may tax an individual who is a citizen or resident of that Contracting State (whether or not such person is also a resident of the other Contracting State) or a corporation of that Contracting State (whether or not also a corporaion of the other Contracting State) as if the present Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect—

(a) the benefits conferred by a Contracting State under Articles 4 and 6;

(b) the benefits conferred by the Untied States under Article 18; and

(c) the benefits conferred by a Contracting State under Articles 14, 15, 16 and 17 upon individuals other than citizens of, or individuals having immigrant status in, that Contracting State.

ARTICLE 4

Relief from double taxation

Double taxation of income shall be avoided in the following manner:

(1) The United States shall allow as a credit against its tax specified in subparagraph (1)(a) of Article 1 the appropriate amount of taxes paid to the Philippines. Such appropriate amount shall be based upon the full amount of tax paid to the Philippines, and such credit shall, in other respects, be allowed in accordance with the applicable revenue laws of the United States. It is agreed for this purpose that the Philippine tax specified in subparagraph (1)(b) of Article 1 shall be considered to be an income tax, and that by virtue of the provisions of paragraph (2) of this Article the Philippines satisfies the similar credit requirement prescribed by section 901(b)(3), Internal Revenue Code of 1954, with respect to taxes paid to the Philippines.

(2) The Philippines shall allow to a resident or corporation of the Philippines as a credit against its tax specified in subparagraph (1)(b) of Article 1 the appropriate amount of taxes paid to the United States. Such appropriate amount shall be based upon the full amount of tax paid to the United States, and such credit shall, in other respects, be allowed in accordance with the revenue laws of the Philippines. It is agreed for this purpose that the United States tax specified in subparagraph (1)(a) of Article 1 shall be considered to be an income tax and that by virtue of the provisions of paragraph (1) of this Article the United States satisfies the similar credit requirement prescribed by section 30(c)(3)(B), National Internal Revenue Code, with respect to taxes paid to the United States.

ARTICLE 5

Source of income

For purposes of Article 3 and 4:

(1) Income from the performance of personal services (including private pensions and annuities paid in respect of such services) or the furnishing of personal services shall be treated as income from sources within the State in which such services are performed. Compensation for personal services performed aboard ships or aircraft operated by a resident or corporation of a Contracting State and, in the case of the United States, registered in the United States (including private pensions and annuities paid in respect of such services) shall be treated as

income from sources within that Contracting State, if rendered by a member of the regular complement of the ship or aircraft.

(2) The source of any item of income to which the provisions of this Article are not expressly applicable shall be determined by each of the Contracting States in accordance with its own law.

ARTICLE 6

Nondiscrimination

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a citizen of that other Contracting State who is resident therein.

(2) A permanent establishment which a citizen or corporation of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than is a citizen or corporation of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging either Contracting State to grant to citizens of the other Contracting State who are not residents of the former Contracting State any personal allowances or deductions which are by its law available only to residents of that former Contracting State.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned by one or more citizens or corporations of the other Contracting State, shall not be subjected in the former Contracting State to more burdensome taxes than is a corporation of the former Contracting State, the capital of which is wholly-owned by one or more citizens or corporations of that former Contracting State.

ARTICLE 7

Business profits

(1) A resident or corporation of one of the Contracting States shall be subject to tax in the other Contracting State with respect to its industrial or commercial profits only if that resident or corporation has a permanent establishment in that other Contracting State.

(2) In the imposition of such tax—

(a) there shall be allowed as deductions ordinary and necessary expenses, wherever incurred, which are allocable, to the reasonable satisfaction of the competent authority of that Contracting State, to income from sources within that Contracting State; and

(b) no profits shall be deemed to be derived from sources within that Contracting State merely by reason of the purchase of goods or merchandise.

(3) For purposes of paragraph (1) the term "industrial or commercial profits" means income derived from the active conduct of a trade or business. It includes profits from manufacturing, mercantile, agricultural, fishing and mining activities, and from the furnishing of personal services. It does not include income from the performance of personal services, dividends, interest, royalties, income from the rental of personal property, income from real property, insurance premiums, or gains derived from the sale or exchange of capital assets.

ARTICLE 8

Definition of permanent establishment

(1) The term "permanent establishment" means a fixed place of business through which a resident or corporation of one of the Contracting States engages in trade or business.

(2) The term "a fixed place of business" includes, but is not limited to, a branch; an office; a store or other sales outlet; a workshop; a factory; a warehouse; a mine, quarry or other place of extraction of natural resources; a building site, or construction or installation site, which exists for more than three months.

(3) The term "permanent establishment" shall not be deemed to include any one or more of the following:

(a) facilities used for the purpose of storage, display or delivery of goods or merchandise belonging to the resident or corporation;

(b) the maintenance of a stock of goods or merchandise belonging to the resident or corporation for the purpose of storage, display and/or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the resident or corporation for processing by another person;

(d) a fixed place of business maintained for the purpose of purchasing goods or merchandise, and/or for the collection of information, for the resident or corporation;

(e) a fixed place of business maintained for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxliary character, for the resident or corporation.

(4) Even if a resident or corporation of one of the Contracting States does not have a permanent establishment in the other Contracting State under paragraphs (1)–(3) of this Article, nevertheless he shall be deemed to have a permanent establishment in the latter State if he engages in trade or business in that State through an agent who—

(a) has a authority to conclude contracts in the name of that resident or corporation and regularly exercises that authority in the latter State unless the exercise of the authority is limited to the purchase of goods or merchandise;

(b) regularly secures orders in the latter State for that resident or corporation; or

(c) maintains in the latter State a stock of goods or merchandise belonging to that resident or corporation from which he regularly makes deliveries or fills orders.

(5) Notwithstanding paragraph (4) of this Article, a resident or corporation of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it uses the services in that State of a bona fide broker, general commission agent, forwarding agent, indentor or other agent of independent status acting in the ordinary course of its business. For this purpose, an agent shall not be considered to be an agent of independent status if it acts as an agent exclusive or almost exclusively for the resident or corporation (or for that resident or corporation and any other person controlling, controlled by, or under common control with that resident or corporation) and carries on any of the activities described in paragraph (4) of this Article.

(6) The fact that a corporation of one of the Contracting States controls or is controlled by or is under common control with (a) a corporation of the other Contracting State or (b) a corporation which engages in trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether the activities or fixed place of business of either corporation constitutes a permanent establishment of the other corporation.

(7) A resident or corporation of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if that resident or corporation provides the services in the latter State of public entertainers referred to in Article 13, paragraph (3).

(8) If a resident or corporation of one of the Contracting States has a permanent establishment in the other Contracting State at any time during the taxable year, it shall be considered to have a permanent establishment in that other Contracting State for the entire taxable year.

ARTICLE 9

Related persons

(1) Where a resident or corporation of a State deriving commercial and industrial profits in one of the Contracting States and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to such resident or corporation but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of such resident or corporation for purposes of the present Convention and taxed by that Contracting State accordingly.

(2) (a) A person other than a corporation is related to a corporation if such person participates directly or indirectly in the management, control or capital of the corporation.

(b) A corporation is related to another corporation if either participates directly or indirectly in the management, control, or capital of the other, or if any person or persons participate directly or indirectly in the management, control or capital of both corporations.

ARTICLE 10

Interest

Interest received by the Government of one of the Contracting States or any agency or instrumentality wholly owned by that Government shall be exempt from tax by the other Contracting State.

ARTICLE 11

Income from real property

A resident or corporation of one of the Contracting States subject to tax in the other Contracting State on income from the rental of buildings or from real property which is improved with buildings, including gains derived from the sale or exchange of such property, or on royalties in respect of the operation of mines, quarries, or other natural resources may elect for any taxable year to compute that tax on such income on a net basis.

ARTICLE 12

Gains upon transfers to controlled corporations

A resident or corporation of one of the Contracting States shall be exempt from tax in the other Contracting State with respect to gain realized upon the transfer of property to a corporation in exchange for stock in such corporation—

(1) If immediately thereafter such resident or corporation, or such person together with any other persons making similar transfers as part of the same transaction, owns stock of such corporation possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation; and

(2) Where the transferee corporation is a Philippine corporation, if the property is transferred and recorded on the books of account of the corporation at a value not exceeding the value at which such property was recorded on the books of account of the transferor.

ARTICLE 13

Income from personal services

(1) An individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State with respect to income from personal services if—

(a) he is present within the latter Contracting State for a period or periods not exceeding in the aggregate 90 days during the taxable year, and

(b) such income is not deducted in computing the profits of a permanent establishment of a resident or corporation of the former Contracting State subject to tax in latter Contracting State, and

(c) in the case of employment income, the services are performed as an employee of a resident or corporation of the former Contracting State, and

(d) the aggregate amount of such income does not exceed $3,000 (or its equivalent in Pesos).

(2) For purposes of paragraph (1) of this Article, the term "income from personal services" includes employment income and income earned by an individual from the performance of personal services in an independent capacity. The term "employment income" includes income from services performed by officers and directors of corporations. Income from personal services performed by partners shall generally be treated as income from the performance of services in an independent capacity, but a salary or other fixed amount paid by a partnership to an active partner shall be considered income from employment by the partnership, if similar payments are not made to inactive partners.

(3) Notwithstanding paragraph (1) of this Article, the income from personal services of public entertainers, such as athletes, musicians and actors, from their activities as such, may be taxed in the Contracting State in which the services are performed if such income exceeds either $100 (or its equivalent in Pesos) for each day the individual is present in the latter Contracting State or an aggregate amount of $3,000 (or its equivalent in Pesos).

(4) Compensation received by any individual for personal services performed aboard ships or aircraft operated by a resident or corporation of a Contracting State (and, in the case of the United States, registered in the United States) shall, subject to paragraph (3) of Article 3 be exempt from tax by the other Contracting State, if the services are rendered by a member of the regular complement of the ship or aircraft.

ARTICLE 14

Teachers

An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State or of a university or other accredited educational institution situated in the other Contracting State, visits the latter Contracting State for the purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax by the latter Contracting State on his income from personal services for teaching or research at such educational institution, or at other such institutions, for a period not exceeding two years from the date of his arrival in the latter Contracting State.

ARTICLE 15

Students and trainees

(1) (a) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of—

(i) studying at a university or other accredited educational institution in that other Contracting State,

(ii) securing training required to qualify him to practice a profession or professional specialty, or

(iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organization,

shall be exempt from tax by that other Contracting State with respect to—

(A) gifts from abroad for the purposes of his maintenance, education, study, research or training;

(B) the grant, allowance, or award; and

(C) income from personal services performed in the other Contracting State in an amount not in excess of $2,000 or its equivalent in Pesos for any taxable year; or, if such individual is securing training necessary for qualification in a medical profession or medical specialty, including any physician, medical technologist, nurse, pharmacist or other person under the Exchange Visitors Program, not in excess of $5,000 or its equivalent in Pesos for any taxable year.

(b) The benefits under this paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of this paragraph for more than five taxable years.

(2) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, a resident or corporation of the former States, for the primary purpose of—

(i) acquiring technical, professional, or business experience from a person other than that resident or corporation of the former Contracting State, or

(ii) studying at a university or other accredited educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State with respect to his income from personal services performed in the other Contracting State for that period in an amount not in excess of $5,000 or its equivalent in Pesos.

(3) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as a participant in a program sponsored by the Government of the other Contracting State, for the primary purpose of training, research, or study shall be exempt from tax by that other State with respect to his income from personal services performed in that other Contracting State and received in respect of such training, research, or study in an amount not in excess of $10,000 or its equivalent in Pesos.

ARTICLE 16

Governmental salaries

Wages, salaries, and similar compensation, and pensions, annuities, or similar benefits paid by, or directly out of public funds of, one of the Contracting States or the political subdivisions thereof to an individual who is a national of that Contracting State for services rendered to that Contracting State or to any of its political subdivisions in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

ARTICLE 17

Rules applicable to personal service articles

(1) For purposes of Articles 13, 14, 15 and 16, reimbursed travel expenses shall be considered to be income from personal services or compensation, but shall not be taken into account in computing the maximum amount of exemptions specified in Articles 13 and 15.

(2) An individual who qualifies for benefits under more than one of the provisions of Articles 13, 14 and 15 may select the application of that provision most favorable to him, but he shall not be entitled to the benefits of more than one provision in any taxable year.

ARTICLE 18

Deduction for charitable contributions

In the computation of taxable income under the United States income tax, a deduction shall be allowed to citizens and residents of the United States and United States corporations for contributions to any organization created or organized under the laws of the Philippines which constitute a nonprofit organization under section 27(e) of the National Internal Revenue Code of the Philippines if—

(a) such contributions are used entirely within the Philippines and

(b) the recipient organization has qualified as a tax-exempt organization under subsection 501(c)(3) of the United States Internal Revenue Code.

Such deductions shall not, however, exceed an amount which would have been allowable under the United States Internal Revenue Code if such organization had been created or organized under the laws of the United States and if such contributions were used within the United States.

ARTICLE 19

Consultation and taxpayer claims

(1) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention. Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to conventions between one of the Contracting States and any other State, the competent authorities shall endeavor to settle the question as quickly as possible by mutual agreement.

(2) The competent authorities may consult together for the purpose of considering the amendment of this Convention to add provisions dealing with such matters affecting income taxation and not covered in this Convention as may be deemed appropriate.

(3) In particular, the competent authorities of the Contracting States may consult together to endeavor to agree—

(a) to the same apportionment of industrial or commercial profits between a resident or corporation of one of the Contracting States and its permanent establishment situated in the other Contracting State; or

(b) to the same allocation of income between a resident or corporation and a related person, dealt with in Article 9,

and to appropriate procedures for effectuating such apportionment or allocation.

(4) A taxpayer shall be entitled to present his case to the Contracting State of which he is a citizen or resident, or, if the taxpayer is a corporation of one of the Contracting States, to that State, if he considers that the action of the other Contracting State has resulted, or will result for him in taxation contrary to the provisions of the Convention. Should the taxpayer's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of the Convention.

ARTICLE 20

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, collection or enforcement of the taxes which are the subject of this Convention (including a court or administrative body).

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

(a) to carry out administrative measures at variance with the laws or administrative practices of that Contracting State or the other Contracting State;

(b) to supply particulars which are not obtainable under the laws of, or in the normal course of administration in, that Contracting State or the other Contracting State; or

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to its public policy.

ARTICLE 21

Assistance in collection

(1) Each of the Contracting States shall endeavor to collect such taxes imposed by the other Contracting State as will ensure that any exemption granted under the present Convention by the other State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected.

(2) In no case shall the provisions of this Article be construed so as to impose upon either of the Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of the Contracting State endeavoring to collect the tax or which would be contrary to that State's sovereignty, security or public policy.

ARTICLE 22

Exchange of legal information

(1) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in Article 1, paragraph (1), and of the adoption of any taxes referred to in Article 1, paragraph (2), by transmitting the texts of any amendments or new statutes at least once a year.

(2) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting the present Convention under the laws of the respective States, whether in the form of regulations, rulings or judicial decisions.

ARTICLE 23

Effective dates and ratification

(1) The present Convention shall be ratified and the instruments of ratification exchanged at Manila as soon as possible.

(2) After the exchange of instruments of ratification, the present Convention shall have effect with respect to taxable years beginning on or after the first day of January of the year following that in which such exchange takes place.

(3) The present Convention shall continue in effect indefinitely, but it may be terminated by either of the Contracting States, on the initiative of the competent authority of that State, at any time after five years from the date specified in paragraph (2) of this Article, provided that at least six months' prior notice of termination has been given. In such event, the present Convention shall cease to be effective with respect to taxable years beginning on or after the first day of January next following the expiration of the six-month period.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed the present Convention.

DONE at Washington, in duplicate, this fifth day of October, 1964.

For the Government of the United States of America:
DEAN RUSK

For the Government of the Republic of the Philippines:
M MENDEZ
RUFINO G. HECHANOVA

Mr. MANSFIELD. Mr. President, the tax conventions with Brazil, France, and the Philippines are designed to eliminate double taxation, and to establish procedures for mutual assistance in the administration of income taxes. Public hearings were held on each of these conventions: In the case of Brazil, on October 5, 1967; and in the case of France and the Philippines, on April 30, 1968. They were considered by the Committee on Foreign Relations in executive session on several occasions, and last week they were ordered reported, with reservations.

The Tax Convention with Brazil was signed on March 13, 1967, and transmitted to the Senate on April 21, 1967. It is the first income tax convention with a South American country. As is the case in other such conventions to which the United States is a party, its primary purpose is to eliminate double taxation resulting from the taxation of the same item or items of income by both countries, and to establish procedures for mutual assistance in the administration of income taxes.

The Committee on Foreign Relations approved the treaty with Brazil subject to two reservations. One reservation deals with article 7, relating to a 7-percent tax credit for American investments in Brazil, and the other deals with article 22, relating to tax deductions for charitable contributions to qualifying organizations located in Brazil.

As submitted by the administration, the Tax Convention with Brazil contains certain provisions—article 7—not contained in any other U.S. tax treaty now in force.

Pursuant to these provisions, an American resident or corporation—as defined in article 7—would be allowed to claim a 7-percent tax credit for investments made in Brazil on or after January 1, 1968, under conditions similar to those under which a taxpayer can receive a 7-percent domestic tax credit for investments in the United States. These provisions are unilateral in that they apply only to investments in Brazil by American residents or corporations. They do not apply to investments by Brazilian citizens in the United States. In exchange for the investment credit provisions, however, Brazil agreed to certain reductions in its taxes on Brazilian investment income. These reductions may be suspended by Brazil during the period the investment credit is not in effect.

According to its report, the Committee on Foreign Relations is of the opinion that, at the present time, it would not be in the best interests of the United States to encourage investments abroad by this device. Accordingly, it recommends that the following reservation be approved by the Senate:

Notwithstanding the provisions of paragraph (3)(b) of article 30 of the convention, article 7 of the convention, which relates to investment credit, shall become effective for the United States only after an exchange of notes between the Contracting States, establishing the effective date of such article, has been approved by the Senate in accordance with the procedure set forth in article II, section 2, of the Constitution of the United States. Until such effective date, a suspension of the investment credit shall be deemed to be in effect within the meaning of paragraph (4) of article 7 and paragraph 6(b) of article 30.

The effect of this reservation is to defer Senate approval of the investment tax credit provision of the Brazil convention—article 7. In this connection, if in the future the executive branch wishes to propose that a tax credit be allowed for investments by Americans in Brazil, it may do so by entering into an exchange of notes with the Government of Brazil and submitting such exchange of notes to the Senate for advice and consent to ratification. In other words, the reservation does not preclude the Committee on Foreign Relations and the Senate from giving further consideration to the concept of extending a tax credit for American investments in Brazil.

Article 22 of the proposed Brazilian convention would allow an American citizen, resident, or corporation to receive a tax deduction for contributions to Brazilian charities if: First, the contributions are used entirely within Brazil; and, second, the recipient Brazilian organization has qualified as a charitable organization under section 501(c)(3) of the Internal Revenue Code.

The only other U.S. tax treaty now in force which contains a similar provision is the treaty with Canada, and the Committee on Foreign Relations states that it does not believe that the practice of allowing tax deductions to Americans for contributions to organizations in foreign countries should be expanded by the tax treaty process. It recommends, therefore, that the Senate approve the following reservation:

The Government of the United States of America does not accept Article 22 of the convention relating to deductions for charitable contributions.

I should add, the convention with Brazil contains a number of provisions found in many other income tax treaties presently in force in areas other than Latin America. These deal with such matters as the definition of a permanent establishment for tax purposes, taxes on dividends and branch profits, as well as taxes on interest and royalties, and income from real property and from personal services. In addition, the convention covers the tax treatment of teachers, students and trainees, governmental salaries, and pensions and annuities. It also contains several administrative provisions which are designed to assist both countries in carrying out the provisions of the convention.

The Tax Convention with France was signed at Paris on July 28, 1967, and transmitted to the Senate on October 3, 1967. Upon entry into force, it will replace the existing income tax convention of July 25, 1939, and—insofar as they concern taxes on income, capital and stock exchange transactions—the double taxation convention of October 18, 1946, the supplementary protocol of May 17, 1948, and the supplementary convention of June 22, 1956.

It is my understanding that the convention was made necessary by fundamental changes in 1965 in the French income tax structure, and it reflects changes made in U.S. law by the Foreign Investors Tax Act of 1966. It also reflects developments in recent years in standardizing international tax relationships as a result of the work of the Fiscal Committee of the Organization for Economic Cooperation and Development—OECD.

The Committee on Foreign Relations has recommended that the Senate approve a reservation dealing with articles 29(1) and 30(3) of the French convention. Article 29(1), which relates to territorial extension, provides that the convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories of France. This extension may be accomplished through an exchange of notes or in any other manner in accordance with the constitutional procedure of France and the United States.

Article 30(3), relating to an exchange of information, states that if any changes are made in the tax laws of either France or the United States and it seems advisable to make adjustments in the provisions of the convention, such adjustments may be agreed upon through an exchange of notes or in accordance with the constitutional procedure of the respective countries.

In the committee's view, neither an extension of the provisions of the convention to the overseas territories of France nor the adjustment of certain provisions of the convention to changes in the tax laws of this country should be done without the advice and consent of the Senate. Accordingly, the committee recommends that the convention with France be approved with the following reservation:

The extension of this convention to the Overseas Territories of the French Republic, referred to in Article 29(1), and the adjustments in the provisions of this convention, referred to in Article 30(3), shall become effective for the United States only in accordance with the procedure set forth in Article II, Section 2, of the Constitution of the United States.

The Tax Convention with the Philippines, which is the third convention under consideration, was signed at Washington on October 15, 1964, and transmitted to the Senate on July 29, 1965.

It differs in a number of substantive respects from existing income tax conventions with industrialized countries in that it contains some provisions not found in other conventions and omits some that are in other U.S. treaties. It does not apply to State and local taxes except to provide—in article 6—that neither the United States nor the Philippines will discriminate in imposing such taxes on the citizens or corporations of the other country.

The convention contains a provision—in article 8—which represents a departure from the definition of "permanent establishment" found in other tax treaties.

Generally, a resident or corporation of one country is deemed to have a permanent establishment in the other country if it engages in trade or business in that country through an agent who first, has and regularly exercises an authority in that country to conclude contracts in its name; or, second, maintains a stock of goods or merchandise from which it regularly makes deliveries or fills orders. Article 8 of the convention adds another situation which will give rise to a permanent establishment; namely, an agent who regularly secures orders for the resident or corporation. In addition, article 8 modifies the general rule that the use of an independent agent does not give rise to a permanent establishment by providing that an agent who acts exclusively or almost exclusively for a resident or corporation will not be considered to be of independent status.

It is the inclusion of these two provisions which constitutes a departure from the permanent establishment definition in other treaties now in effect.

The Committee on Foreign Relations has recommended that the Senate approve a reservation dealing with article 18 of the convention, which would permit U.S. residents to receive a deduction for contributions to nonprofit organizations in the Philippines if those contributions are used within the Philippines and if the organization is one that has qualified under the internal revenue code as a tax-exempt organization. The reservation to this article is identical to the reservation to the Brazil treaty dealing with the same subject. It reads as follows:

The Government of the United States of America does not accept Article 18 of the convention relating to deductions for charitable contributions.

Mr. President, the Committee on Foreign Relations recommends that the Senate give its advice and consent to the conventions with Brazil, France, and the Philippines, subject to the reservations which I have discussed.

The PRESIDING OFFICER. Without objection, the conventions will be considered as having passed through all of their various parliamentary stages up to and including the point of consideration of the resolutions of ratification, which will be read for the information of the Senate.

The bill clerk read as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the convention between the United States of America and the United States of Brazil for the avoidance of double taxation with respect to taxes on income, signed at Rio de Janeiro on March 13, 1967, subject to the following reservations:

1. "Notwithstanding the provisions of paragraph (3)(b) of article 30 of the convention, article 7 of the convention, which relates to investment credit, shall become effective for the United States only after an exchange of notes between the Contracting States, establishing the effective date of such article, has been approved by the Senate in accordance with the procedure set forth in article II, section 2, of the Constitution of the United States. Until such effective date, a suspension of the investment credit shall be deemed to be in effect within the meaning of paragraph (4) of article 7 and paragraph 6(b) of article 30."

2. "The Government of the United States of America does not accept article 22 of the convention relating to deductions for charitable contributions."

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the convention between the United States of America and the French Republic with respect to taxes on income, signed at Paris on July 28, 1967, subject to the following reservation:

"The extension of this convention to the Overseas Territories of the French Republic, referred to in article 29, and the adjustments in the provisions of this convention, referred to in article 30(3), shall become effective for the United States only in accordance with the procedure set forth in article II, section 2, of the Constitution of the United States."

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the convention between the United States of America and the Republic of the Philippines for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Washington on October 5, 1964, subject to the following reservation:

"The Government of the United States of America does not accept article 18 of the convention relating to deductions for charitable contributions."

Mr. MANSFIELD. Mr. President, for the information of the Senate, these conventions have been approved not only by the Committee on Foreign Relations, but have also been considered and approved by the staff of the Joint Committee on Internal Revenue Taxation.

The PRESIDING OFFICER. The question is on agreeing en bloc to the reservations to the resolutions of ratification.

The reservations were agreed to en bloc.

Mr. MANSFIELD. Mr. President, lest anyone get any idea that this is a matter that we are just bringing up on the spur of the moment, if need be, we will vote on the reservations at our next meeting. I am sure that will meet with the approval of the Senate because of the protective safeguards provided therein.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the votes on the treaties—and there will be three votes—take place beginning at 12 o'clock noon Thursday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

Ordered, That at 12 noon on Thursday, June 6, 1968, the Senate proceed to vote on the resolution of ratification to the Tax Convention with Brazil (Ex. J, 90th Cong., first sess.); to be followed by a vote on the resolution of ratification to the Tax Convention with France (Ex. N, 90th Cong., first sess.), and then by a vote on the resolution of ratification to the Tax Convention with the Philippines (Ex. D, 89th Cong., first sess.).

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO THURSDAY NEXT AT 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock Thursday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, following disposition of the conventions, it is the intention of the leadership to bring up H.R. 16911, the so-called special drawing rights, which measure was reported unanimously from the Committee on Foreign Relations.

ADJOURNMENT TO THURSDAY AT 11 A.M.

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate today, I move under the order previously entered, that the Senate stand in adjournment until 11 o'clock Thursday morning next.

Before any action is taken on my motion, I urge that the committees make use of the extra time.

The motion was agreed to; and (at 2 o'clock and 57 minutes p.m.) the Senate adjourned until Thursday, June 6, 1968, at 11 a.m.

NOMINATION

Executive nomination received by the Senate June 4, 1968:

FEDERAL TRADE COMMISSION

A. Everette MacIntyre, of Virginia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1968 (reappointment).

EXTENSIONS OF REMARKS

THE 15TH UNIVERSAL COTTON STANDARDS CONFERENCE

HON. ROBERT A. EVERETT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 4, 1968

Mr. EVERETT. Mr. Speaker, I would like to commend the U.S. Department of Agriculture for a job well done in successfully conducting the recent 15th Universal Cotton Standards Conference in Memphis, Tenn.

As many of you probably know, the purpose of the conference, which is held every 3 years by USDA's Consumer and Marketing Service, is to approve key sets of the universal cotton standards for American upland cotton. The conference is held under terms of the Universal Cotton Standards Agreement, which was put into effect in 1923, and now includes 13 signatory cotton associations located in Belgium, France, Germany, India, Italy, Japan, the Netherlands, Poland, Spain, and the United Kingdom. Delegates from these associations, as well as representatives from the U.S. cotton industry—including ginners, producers, shippers, and manufacturers—were at the meeting.

Mr. Speaker, I submit that these conferences—this is the 15th—are outstanding examples of international cooperation and teamwork to be observed anywhere.

Moreover, the universal cotton standards for American upland cotton are the first international standards to be adopted and put into use in trading between nations.

The Codex Alimentarius, sponsored by the World Health Organization and the Food and Agriculture Organization of the United Nations, is now working toward world standards for food, but I must say that the cotton people are about 45 years ahead of them.

The 1968 conference went very smoothly and 100 key sets of standards—each set made up of 15 boxes of samples representing the physical grades of American upland cotton—were approved in only 2 days. This was possible, of course, only because of the many months of hard work performed by the C. & M.S. Cotton Division in advance of the conference.

Preparation for the conference began last fall, when the Cotton Division purchased bales of cotton suitable for preparing the 100 key sets of the standards. Then, in January, special classing experts were brought into Memphis from all across the Cotton Belt to make special adjustments in the key copies so they would match the previous set of standards, approved at the 1965 conference, as closely as possible.

By using the universal standards, cotton merchants and manufacturers in Japan, India, England, Germany, or any other country can state exactly what quality of cotton they want to buy and know that the seller understands their specifications. Middling white cotton means the same thing to each of them, because each understands and uses this previously agreed upon standard to describe this particular quality of cotton.

Much of the success of this standards program has been due to the meticulous care exercised by the Consumer and Marketing Service in reproducing the thousands of standards that are distributed throughout the world each year.

I would like to add my congratulations to the many others received at the recently concluded conference for a job well done.

"JOB FAIR" IN HOUSTON—POSITIVE ACTION BY BUSINESSMEN AND YOUTH

HON. JOHN G. TOWER

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Tuesday, June 4, 1968

Mr. TOWER. Mr. President, the businessmen and municipal employers of Houston, Tex., are to be congratulated for the farsighted arrangements to employ city youths during the upcoming summer months. Billed as the second annual Job Fair, recruiters and agents for over 300 companies met at the Houston Coliseum and interviewed ghetto kids for summer jobs. The companies represented offered the city youth over 3,200 jobs. In 2 days of interviews, 2,300 Houston youths landed jobs. An estimated three-quarters of the applicants were Negroes and a vast majority were poor children from the ghetto.

Such endeavors as these are positive examples of what businessmen and concerned citizens in large urban centers can do to utilize the productive talents of our Nation's youth. We all benefit from such constructive alliances between business leaders and young people to help alleviate some of the economic problems in our Nation. I ask unanimous consent that the article entitled "The Job Fair," published in Newsweek for May 27, 1968, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPLOYMENT: THE JOB FAIR

Armstrong Ulysses, a 19-year-old high-school senior in Houston, tore into a big lunch last week—club sandwich, peach cobbler, milk shake and a sundae. He was celebrating, and with reason. He had just snagged a $3.76-an-hour summer job as night warehouseman for Red Ball Motor Freight. "I figured it would pay something like $1.60 to $2," he bubbled. "But when he said $3.76, my eyes like to pop out of my head."

"He" was a Red Ball recruiter, who with agents for 346 other employers was interviewing ghetto kids for summer jobs at Houston's Coliseum. It was the city's second "job fair," an attempt to head off trouble of the kind that shook predominantly Negro Texas Southern University last spring and awakened the city to the fact that many of its 350,000 Negroes were without jobs.

At the first fair last year, nearly 1,000 youths got jobs with 216 companies, despite a late midsummer start. But this year, everything was different. Planning began months ago when a committee of municipal employees and businessmen made bold and repeated contacts with almost all the city's business firms, urging them to set aside summer jobs for ghetto kids or create jobs if necessary, at the minimum ratio of one for every 100 employees. If jobs weren't available, companies were pressed into donating up to $768—average pay for a summer—so a kid could work in a hospital or other organization that couldn't afford the salary.

PUBLICITY

Ghetto schools were canvassed for job-seekers, who completed applications listing